DEMOCRACY DECLINED:
THE FAILED POLITICS OF CONSUMER CREDIT

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by
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Consumer credit is central to the U.S. economy, as both a driver of mass consumption and a key source of financial support for the average American. As consumer borrowing has proliferated in recent decades, so too has the prevalence of predatory lending. The growth of consumer borrowing under increasingly unsustainable conditions poses serious risks to the financial security of individuals and the American economy. Yet, policymakers have failed to enact effective consumer financial protections, and consumers have not engaged in political action to address complaints with credit. Advocacy groups have also been stymied in their efforts to mobilize consumers and to lobby regulators in support of stronger consumer financial protections. Why have these actors struggled to address problems with such an important part of the U.S. economy through political action?

I propose a policy-centered answer. I argue that the U.S. has a political economy of credit in which New Deal policymakers deliberately embraced credit to fuel a consumption economy, consequently prioritizing the performance of the national economy over the protection of individual borrowers. Constrained by a scheme of their own invention, I contend that legislators are forced to prioritize widespread credit access over meaningful consumer protection, leading to the adoption of information disclosures as the primary form of credit regulation. Once enacted, the design,

implementation, and administration of these policies produce regulatory feedback effects that reshape the political behavior of bureaucrats, consumer advocates, and ordinary Americans. First, credit policies privatize and personalize the use of consumer credit, diminishing citizen political engagement and complicating advocacy mobilization efforts. Second, administrative authority for credit policy is fragmented across agencies designed to promote the financial security of banks over that of individuals, leading to regulatory arbitrage that obstructs bureaucratic policymaking, public interest lobbying, and consumer participation in the regulatory arena. I employ multiple methods, leveraging archival research, legislative analyses, public opinion and complaint data, a survey experiment, and elite interviews to explore these dynamics. I conclude that these feedback effects contribute to the ongoing failure to enact meaningful consumer credit protections, ultimately threatening the financial security of borrowers and the nation as a whole.

BIOGRAPHICAL SKETCH

Mallory SoRelle holds a Ph.D. in Government from Cornell University, with a specialization in American Politics. She is a Phi Beta Kappa graduate of Smith College, where she earned her B.A. *cum laude* in government and sociology in 2006. She received an M.P.P. from the Harvard University Kennedy School of Government in 2010 and an M.A. in Government from Cornell University in 2014. Dr. SoRelle is a native Texan, and she has worked in legal advocacy and electoral politics in Massachusetts. She will be joining the faculty at Lafayette College in the fall of 2016 as an Assistant Professor of American Politics in the Government and Law Department.

To my parents, Drs. James and Cynthia SoRelle,

for teaching me to be intellectually curious,

especially about questions with the potential to make a difference.

ACKNOWLEDGMENTS

Upon graduating from Smith College, I was fortunate to join the staff of the National Consumer Law Center, an organization dedicated to protecting the finances of low-income consumers through legal and policy advocacy. I moved to Boston in the summer of 2006 to begin my new job, knowing little about consumer lending law beyond the basics of personal finance I had absorbed from a program run by Smith College's visionary Center for Women and Financial Independence. Over the next two years, I learned a tremendous amount about consumer debt and financial regulation from my incredibly brilliant and dedicated colleagues at NCLC. I also witnessed firsthand the struggles that they and their partners in the consumer advocacy world encountered trying to persuade policymakers to better protect consumer finances—even as lending markets teetered on the edge of collapse. My work at NCLC in the midst of the bourgeoning financial crisis undoubtedly laid the foundation for this project, and I owe a debt of gratitude to the wonderful staff there. When I left NCLC in 2008 to pursue a Masters of Public Policy at the Kennedy School, I thought I was leaving the world of consumer credit policy behind to focus my energies on a long-held passion of mine: participatory inequalities in the political sphere. In 2010, however, Suzanne Mettler helped to change that plan, showing me that public policy and political engagement were not, in fact, mutually exclusive.

If my experience at NCLC provided the kindling for this project, Suzanne offered the necessary fuel to ignite and sustain the whole endeavor. First, as a pioneer in the rapidly growing field of policy feedback research, Suzanne introduced me to the

theoretical bridge that allowed me to link my policy and participatory interests. She invited me to adopt my own orientation toward the literature and has been supportive of my work to extend it in new ways and into new realms. Beyond her scholarship, Suzanne's unwavering encouragement helped me to take the plunge on a topic—consumer credit politics—that had little preexisting literature in political science and even less data from which to draw. Even as I flirted with other interests and potential dissertation ideas, she remained steadfast in her belief that this project not only offered the potential to contribute something new and important to our understanding of public policy and political inequality in the United States, but also that I had the ability to successfully and creatively undertake it. Working with Suzanne as a graduate student and, increasingly, as a colleague, has been an incomparable experience for which I am tremendously grateful. My respect for her intellect, mentorship, dedication to asking important questions, and public engagement continues to grow. I offer Suzanne my sincere gratitude for the role she has played not only in supporting this project, but also in supporting me as a scholar in my own right.

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I am grateful for the support of the entire Department of Government at Cornell, without which I would not have successfully completed this project. A number of other professors extended their intellectual energy and support to me. Ken Roberts provided instrumental feedback on the earliest iteration of this project. Richard Bensel's encouragement and extensive comments on the theoretical framing of the project were also extremely helpful. Finally, Jamila Michener's advice on the role that inequality plays in the project, her broader professional insight, and her friendship in my last year at Cornell have all been invaluable. Thanks to Chris Way, Jason Frank, and Sarah Krepps for their support as Directors of Graduate Studies during my time at Cornell. And finally, I would like to thank the Government Department's incredible administrative staff, including Tina Slater, Laurie Dorsey, Stacy Kesselring, Danielle O'Connor, Judy Virgillio, and Dinnie Sloman, without whom the whole operation would certainly fall apart.

I owe my appreciation to a great many people beyond the department as well.

First, thank you to the wonderful faculty and staff at the Knight Center for Writing in the Disciplines at Cornell who allowed this social science interloper to join their team. The opportunity to both help train graduate student instructors of writing and to work as a writing tutor for graduate students allowed me to refine and improve my own writing. I am particularly grateful for the friendship and advice of Tracy Hamler Carrick. Thank you also to the discussants and panelists from both the American Political Science Association and the Western Political Science Association for their feedback on early drafts of this project. I am also perpetually grateful to a number of professors at Smith College, including Donald Baumer, Patricia Miller, Patrick Coby, Marc Lendler, Alice Hearst, Mlada Bukovansky, Gary Lehring, and Nancy Whittier, and at the Kennedy School, including Elaine Kamarck, David King, Robert Putnam, and Matt Baum, for providing important lessons in conducting social science research.

There are a number of people who deserve my thanks for facilitating the research for this project. First, the Consumer Movement Archives at Kansas State University provided me with the research award that enabled my travel to and work at the archives. I am particularly grateful for the help of Jane Schillie and Anthony Crawford there. In addition, I would also like to thank Brian McNerney at the Lyndon Baines Johnson Presidential Archives and Virginia Lewick and Kirsten Carter at the Franklin Delano Roosevelt Presidential Archives for their assistance with my research. I extend my thanks to the consumer advocates who took time out of their busy schedules to sit down with me for this project. Their honest evaluations of their organizations' successes and failures provide invaluable data for this study. Finally, I want to acknowledge the American Studies Department, the Center for the Study of

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to embark on my archival research trips armed with the right questions. She also transcribed the advocacy interviews for this project, helped to format the reference section, and provided editorial assistance for every chapter. I am truly grateful for all of her support.

Finally, I want to extend my gratitude to my parents, to whom this project is dedicated. My parents are both professors, and I can still remember pulling the thick, bound copies of their dissertations off of the bottom shelf of a bookcase at my childhood home, determined to read them. As it turned out, I was not yet equipped to wade through a project on French avant-garde theatre at age ten. However, I have been privy to many more important examples of their dedication and success as academics over the years, not least of which is the string of grateful students who remain in touch. My dad, a Civil Rights historian, has no doubt contributed both to my respect for and interest in the past and my understanding of the meticulous detail required for academic research. My mom, a theatre historian and dramaturg, has constantly reminded me of the importance of persistence and working to my potential in every undertaking. Without both of their excellent examples, endless love and encouragement, and occasional editorial support, my academic accomplishments would not have been possible. Most importantly, however, both of my parents have taught me to be a compassionate scholar, one who is determined to investigate problems that matter in the world. I hope this project meets their approval.

Mallory E. SoRelle
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CHAPTER ONE

Democracy Declined: The Failed Politics of Consumer Credit

"It is impossible," Elizabeth Warren wrote in the summer of 2007, "to buy a toaster that has a one-in-five chance of bursting into flames and burning down your house. ... Similarly, it's impossible to change the price on a toaster once it has been purchased" (Warren 2007). Unfortunately for the rapidly expanding population of American borrowers, however, the same could not be said about consumer credit. Consumer credit, Warren cautioned, is not subject to equivalent legal protections that keep Americans safe from appliance fires, tainted food, and faulty automobiles:

> "[I]t *is* possible to refinance an existing home with a mortgage that has the same one-in-five chance of putting the family out on the street... [And] long after the papers have been signed, it *is* possible to triple the price of the credit used to finance the purchase of [an] appliance, even if the customer meets all the credit terms, in full and on time."[1]

An exploding toaster has never sparked a global economic collapse. But with the storm clouds of impending financial crisis gathering ominously on the horizon as Warren penned this article, it appeared that the explosion of risky loan products and lending practices in the United States would do just that. Under these circumstances, it seemed entirely rational for Warren to ask, echoing the same question that had been posed by a chorus of consumer advocates for well over a decade, "Why are consumers safe when they purchase tangible consumer products with cash, but when they sign up for routine financial products like mortgages and credit cards they are left at the mercy of their creditors?"

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[1] Emphasis added by the author.

An array of potentially predatory[2] credit products and terms, like the subprime mortgages and interest rate hikes mentioned by Warren, proliferated in the years leading up to the most recent financial crisis. For example, the rate of subprime mortgage lending[3] in the United States quadrupled in the preceding decade, growing from a mere five percent of all mortgages originated in 1994 to almost a quarter of all originations in 2006 (Financial Crisis Inquiry Commission 2011: 70).[4] Payday lenders, who make small loans with average effective annual percentage rates of about 300 percent to cash-strapped borrowers, expanded rapidly. Payday loan storefronts more than tripled from 7,000 locations in 2000 to approximately 24,000 by 2006 (Center for Responsible Lending 2012). In fact, by 2007 there were more payday loan storefronts per capita in the United States than McDonald's and Starbucks stores combined (Graves 2008). Credit products like reverse mortgages, fee-harvester credit cards, and refund anticipation loans, each possessing the ability to draw consumers into a cycle of debt from which they might have trouble extricating themselves, also multiplied.[5]

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[2] A uniform legal definition of predatory lending does not exist in the United States, but a number of federal agencies have applied their own descriptions to the term. The FDIC, for example, explains that a predatory loan "typically involves imposing unfair and abusive loan terms on borrowers, often through aggressive sales tactics; taking advantage of borrowers' lack of understanding of complicated transactions; and outright deception (OIG FDIC 2006)." The Federal National Mortgage Association (FNMA or Fannie Mae) describes a predatory loan as one that is "characterized by excessively high interest rates or fees, and abusive or unnecessary provisions that do not benefit the borrower (Carr and Kolluri 2001)."

[3] Subprime mortgages are those offered to borrowers who are considered to be less creditworthy or who pose a greater risk of loan default. To compensate for the higher risk to lenders, subprime mortgages frequently feature higher interest rates and less favorable lending terms than prime mortgages.

[4] See Figure 5.2. The Financial Crisis Inquiry Report noted that as subprime lending increased, these inherently risky mortgages comprised a growing portion of the booming mortgage-backed securities market that, when it began to suffer significant losses, would lead to the insolvency of several of the country's most significant financial services firms.

[5] Reverse mortgages allow seniors to convert home equity into cash, and their volume more than doubled from 2005 to 2008 (Department of Housing and Urban Development 2008). Fee harvester credit cards charge high fees on low credit limits, which results in the consumer having as little as $50 of usable credit at an exorbitant cost. They have been sold to millions of consumers in the last ten years (Jurgens and Wu 2007). Refund anticipation loans, which make small short-term loans that must be

And all of this took place as consumer borrowing fueled such a dramatic rise in overall indebtedness that by 2007, total outstanding household debt was 1.3 times the size of household disposable income in the United States (Dynan and Kohn 2007).

Despite these conditions, federal policymakers had done very little to staunch the growth of predatory lending. While Congress has promulgated a policy regime combining information disclosure with more stringent safety and inspection protocols for a variety of durable and comestible consumer goods dating as far back as 1906, when the Pure Food and Drug Act was signed into law, they have taken a distinctly different approach to consumer credit. Federal policymakers—both legislative and bureaucratic—have opted to pursue a strategy of consumer financial protection predicated almost entirely on information disclosure requirements, enacting few safety or preventative measures. Beginning with passage of the first federal consumer credit regulation in 1968—the Truth in Lending Act—policymakers have hewed closely to this model. They did so even as consumer loan terms became increasingly risky, disclosures became increasingly ineffective, and a growing percentage of the population became increasingly reliant on consumer credit to finance their daily lives.

Consumer advocates recognized the looming economic danger generated by growing consumer indebtedness under progressively more predatory terms long before the "Great Recession" began in earnest in December 2007.[6] Alarmed by these trends, which advocates attributed in large part to insufficient government regulation of the consumer finance industry, several public interest organizations set out to mobilize the

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repaid with tax refunds, charge consumers an interest rate equivalent to between 390% and 520% APR, compared to rates ranging from 0% to 20% for regular revolving credit accounts (Wu and Fox 2008).

expanding cohort of angry and affected borrowers toward political action. Advocates hoped that doing so would help secure systemic reform to the existing consumer credit policy regime. And active mobilization was deemed necessary because, up to that point, consumers had largely restricted their attempts to get redress for credit issues to individual market actions, for example, by complaining to a creditor or a trade association. Disgruntled borrowers had not, however, taken political action in any substantial way to express their growing displeasure with the consumer financial system in the United States.

A coalition of consumer, civil rights, labor, and religious groups coalesced with the goal of engaging ordinary Americans in collective political action to demand lending reform. They established new organizations like Americans for Fairness in Lending (AFFIL) and Americans for Financial Reform (AFR) with the express purpose of promoting grassroots political participation against predatory lending.[7] Bolstered by coverage from popular media outlets and the growing prominence of consumer advocate Elizabeth Warren, AFFIL and AFR actively pursued consumer political engagement as Congress moved to enact new financial reform. However, despite the power of mobilization to generate political engagement (see Rosenstone and Hansen 1993), these new groups failed to "fully mobilize and channel the public rage" toward grassroots political participation in support of financial reform legislation (Kirsch and Mayer 2013: 152). The limited success public interest groups did enjoy came from mobilizing consumers collectively toward targets within the

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[6] The beginning of the recession was identified by the Business Cycle Dating Committee of the National Bureau of Economic Research (NBER 2008).
[7] For information on the missions of these two organizations see Mayer 2012.

market itself, for example, protests of banks and trade associations.

While consumer groups struggled to get the public to agitate for political solutions to the problem of predatory lending, advocates continued their own lobbying efforts both within Congress and during the bureaucratic rulemaking process. Consumer interest organizations were able to achieve one of their desired legislative reforms in the aftermath of the financial crisis: the creation of the Consumer Financial Protection Bureau (CFPB) in 2010. But they were largely stymied in their attempts to secure fundamental changes to the existing consumer credit policy regime, even though policymakers acknowledged the role that predatory lending played in sparking the financial meltdown.[8]

When President Obama signed the Wall Street Reform and Consumer Protection Act into law on July 21, 2010 (ironically from the Ronald Reagan Office Building), he emphasized the relationship between predatory lending and the economic crisis, saying, "Over the past two years, we have faced the worst recession since the Great Depression. ... [T]he primary cause was a breakdown in our financial system. ... Unscrupulous lenders locked consumers into complex loans with hidden costs." But President Obama's remarks unintentionally underscored the new law's lack of substantive policy change, at least with respect to consumer credit regulation:

> "Now, for all those Americans who are wondering what Wall Street reform means for you, here's what you can expect. If you've ever applied for a credit card, a student loan, or a mortgage, you know the feeling of signing your name to pages of barely understandable fine print. What often happens as a result is that many Americans are caught by hidden fees and penalties, or saddled with loans they can't afford. With this law…we'll make sure that contracts are

[8] Analyses of the CFPB suggest that, while it changes the underlying regulatory architecture of consumer financial protection, the law did not fundamentally change the substance of consumer financial protection policies. (See, for example, Levitin 2009 and Carpenter 2014.)

> simpler—putting an end to many hidden penalties and fees in complex mortgages—so folks know what they're signing. With this law, students who take out college loans will be provided clear and concise information about their obligations. And with this law, ordinary investors—like seniors and folks saving for retirement—will be able to receive more information about the costs and risks of mutual funds and other investment products, so that they can make better financial decisions as to what will work for them. So, all told, these reforms represent the strongest consumer financial protections in history."

The problem with the President's analysis, of course, is that "what you could expect" sounded like more of what Americans already had. These reforms did not actually depart from the historic reliance on information disclosure in a meaningful way. As one consumer advocate resignedly acknowledged at a speech commemorating the five-year anniversary of the bill signing, "[We] knew even during its passage that the Dodd-Frank bill aimed to preserve the financial system, rather than restructuring it fundamentally to make it serve the real economy" (McGhee 2015).

This inability to cultivate popular political mobilization to combat predatory lending or to bring about more fundamental policy change is particularly perplexing. Calls for increased government oversight and new strategies for regulation of the financial industry would have been a logical response to the economic damages generated from decades of consistent financial deregulation and the destruction of the financial security of millions of Americans. It is equally strange considering the variety of other consumer issues that sparked mobilization during the same time period.[9] Instead, when consumers engaged in some form of individual or collective action in response to the conditions that led to and resulted from the recent financial crisis they largely avoided political channels in favor of action within the market itself.

[9] In 2013, for example, TIME Magazine published a list of two-dozen consumer mobilization efforts spanning a number of industries (Tuttle 2013).

And when legislators introduced new policies, their proposed reforms were more likely to expand current information disclosure requirements or reorganize preexisting rulemaking authority than to adopt new and more stringent restrictions on financial products and services themselves.

Why have policymakers been so attached to disclosure requirements as the main form of consumer credit protection in the United States despite their seeming ineffectiveness? As predatory lending grew relatively unchecked, why were American consumers not more motivated to pursue their grievances with financial products and services through political channels? Why have consumer financial advocacy organizations been stymied in their attempts to instigate political mobilization among distressed consumers and to generate support for reform among financial regulators? What do these trends mean for future policymaking with respect to consumer financial products and services? In sum, what explains the failed political response to problems with consumer credit in the United States?

Over the last decade, scholars have paid increasing attention to the cultural and economic trends associated with growing consumer credit usage in the United States. Studies have traced the evolution of consumer debt from an unpardonable sin to an indispensable feature of what Lizabeth Cohen (2003) calls a "Consumer's Republic" (Calder 1999; Hyman 2011). They have shown that credit is an essential component of the modern U.S. economy, both as a necessary driver of consumption and, more recently, as an enormously profitable industry unto itself (Manning 2000; Krippner 2005, 2011). Furthermore, in the absence of a "traditional" welfare state, access to consumer credit serves as an essential form of financial support for many Americans

(Prasad 2012; Shelkle 2012; Logemann 2012). Beyond its economic implications, however, this project is motivated by an underlying assumption that the expansion—both in access and economic significance—of consumer credit in the United States is fundamentally a political issue as well. And while some of the political *causes* of growing consumer credit markets in the United States have been explored by a handful of scholars (e.g., Cohen 2003; Hyman 2011; Prasad 2012; Trumbull 2014), virtually no research attends to the explicitly political *consequences* created by an economy built on a foundation of consumer credit.

I develop a theory of regulatory policy feedback, grounded in the historical political development of consumer lending policy in the United States, to address the puzzling condition of consumer credit politics over time. I contend that the United States has a political economy of credit whereby governing institutions were established and subsequently support a form of capitalism predicated on access to consumer credit to fuel a consumption-based economy. Under this system, consumer credit policies are designed and administered with the primary goal of promoting the growth and preserving the stability of the national economy and its constituent financial institutions, rather than protecting individual consumers. Indeed, President Obama alluded to this phenomenon at the Dodd-Frank bill signing, conceding, "The fact is, the financial industry is central to our nation's ability to grow, to prosper, to compete and to innovate."

Constrained by a scheme of their own invention, I argue that policymakers since the New Deal have adopted information disclosures as the primary form of consumer credit regulation because it is the only method that attempts to inspire

necessary consumer confidence in borrowing without restricting the overall supply of credit. Once enacted, I argue that the design, implementation, and administration of these credit policies 1) both privatized and personalized this central form of economic assistance and 2) gave primacy to the safety and soundness mission of regulators while fragmenting rulemaking and enforcement authority for consumer protection across multiple executive agencies. As a result of the first dynamic, the average consumer's preferences for addressing financial grievances are shaped by precepts of limited government intervention in the market and personal responsibility for the success of financial transactions. Consumer advocates have struggled to employ collective action frames that resonate with these preferences while successfully encouraging political engagement on credit issues. Furthermore, the second dynamic has made it difficult for public interest groups to engage regulators on issues of consumer protection with respect to credit issues; and when regulators do turn their attention to protecting consumers, advocates' lobbying attempts are constrained by regulatory arbitrage—a so-called race to the bottom—produced by fragmented rulemaking authority.

This project employs multiple methods to develop and test its hypotheses. The remainder of this chapter more fully advances the argument of the study. In subsequent chapters I combine original archival research and legislative analysis, interviews with leading consumer advocates, content analysis of advocacy appeals, quantitative analysis of both existing and original survey and consumer complaint data, and an original survey experiment to 1) consider how the development of a political economy of credit constrained the viable policy alternatives available to lawmakers, 2) understand how specific features of the policy regime central to the

political economy of credit have shaped individual preferences for political action in response to concern over consumer finance, 3) explore how these effects inhibit the ability of advocacy groups to mobilize consumers politically around consumer credit issues, and 4) address how the fragmented administration of consumer credit policies confounds the lobbying efforts of consumer advocacy groups and limits citizen engagement in the regulatory sphere. The project concludes by reflecting on the potential of the newly-created CFPB to serve as a critical juncture, capable of bringing government back in to consumer credit regulation in the minds of the public and providing a proactive and centralized agency with which advocates can partner to pursue more fundamental regulatory change.

This project addresses a key, though severely understudied, aspect of U.S. political economy: consumer credit. It is especially attentive to the explicitly *political* consequences produced by the U.S. political economy of credit. The project has serious implications for both scholars and policy practitioners, ultimately finding that the policy regime on which the U.S. political economy of credit is founded constrains the ability of public interest organizations to lobby on behalf of consumer credit protections while simultaneously disincentivizing citizens' political engagement on behalf of consumer credit issues. By failing to meaningfully pursue government oversight of the consumer credit industry, citizens lose their most viable pathway to economic security and minimize political action on behalf of a central component of the U.S. welfare state.

The Growth of Consumer Credit

Consumer credit refers to loans issued to individual, non-commercial

borrowers to help finance the purchase of commodities and services or to refinance existing debt. It can be issued in two primary forms: installment (closed-end) or revolving (open-end) credit. Installment credit consists of any loan issued for a set amount that is repaid over a specified period of time with scheduled payments of both principle and interest. Installment loans may have a short repayment period, or they might be repaid over a much longer term (e.g., a student loan). Revolving credit, by contrast, refers to a loan with a pre-determined borrowing limit where the loan is automatically renewed each time the debt balance is paid off. The most prominent example of revolving credit is the credit card.[10]

While consumer credit is a fundamental piece of the American economy today, the forms it most commonly takes are a relatively modern invention. As industrialization transformed the United States from an economy based on agrarian production to one supported by manufacturing, the ability for consumers to purchase the dazzling array of new manufactured goods was paramount. Marriner Eccles, Chairman of the Federal Reserve under President Franklin Roosevelt, explained succinctly in his memoir (1951), "mass production has to be accompanied by mass

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[10] This project will use the terms consumer credit, consumer lending/loans, and consumer finance interchangeably to refer to these types of products. Mortgages are a particularly prominent type of closed-end consumer credit; however, this project will focus on non-mortgage consumer credit. The reasons are twofold. First, there is already a robust scholarship exploring the role that housing and mortgages play in the United States (e.g., Schwartz 2009; Quinn 2010; Prasad 2012; Kwak 2015). Far less is known about other forms of consumer credit, despite the proliferation of non-mortgage lending. Most importantly, however, the trajectory of mortgage lending in the United States diverges in important ways from other types of consumer credit. To begin with, mortgages, brokers, insurance providers, and foreclosures are not all regulated primarily by the federal government, meaning that homeowners across the United States are subject to different constellations of mortgage policy. By contrast, most other forms of consumer credit have been federally preempted, meaning that the average borrower is subject predominantly to federal policy. But even federal mortgage policies have developed—both in their design and implementation—in fundamentally different ways from other forms of consumer credit. In combination, these two differences equate to diverging politics. While mortgage lending makes for a fascinating case study, it will not be the subject of this project.

consumption." And, as retailers in the 1920s quickly discovered, mass consumption—particularly for more expensive durable goods like large appliances and automobiles—required credit. Installment loans grew when retailers observed that they could make greater profits by extending credit to consumers to purchase their goods (Olney 1991), a practice that became even more profitable once installment debt became resellable with the emergence of finance companies (Hyman 2011).

The 1920s witnessed the proliferation of installment loans provided primarily by retail outlets for the purchase of specific manufactured goods, but legally-obtained small personal loans to help cover unspecified costs where scarce. The lack of available small loans was of particular concern for the new and growing class of urban workers who, while in possession of relatively stable wages, were without a source of financing to weather unexpected expenses. Having left behind familial sources of support in their rural hometowns, and with no form of government assistance or welfare available to them, workers turned to loan sharks in the face of a financial emergency (Calder 1999; Hyman 2011). The combination of state usury laws, which limited the interest that lenders could collect on a loan, and the relatively high costs of administering even small-dollar loans, made extending consumer credit an unprofitable business for reputable lenders (Hyman 2011; Trumbull 2014). That would change, however, during the New Deal.

While explanations for the origin of the Great Depression are plentiful, many reformers active at the time pointed to underconsumption as the root of the crash (Jacobs 2011; Prasad 2012). New Deal policymakers, therefore, sought to increase consumption to jumpstart the beleaguered economy. Enhancing the purchasing power

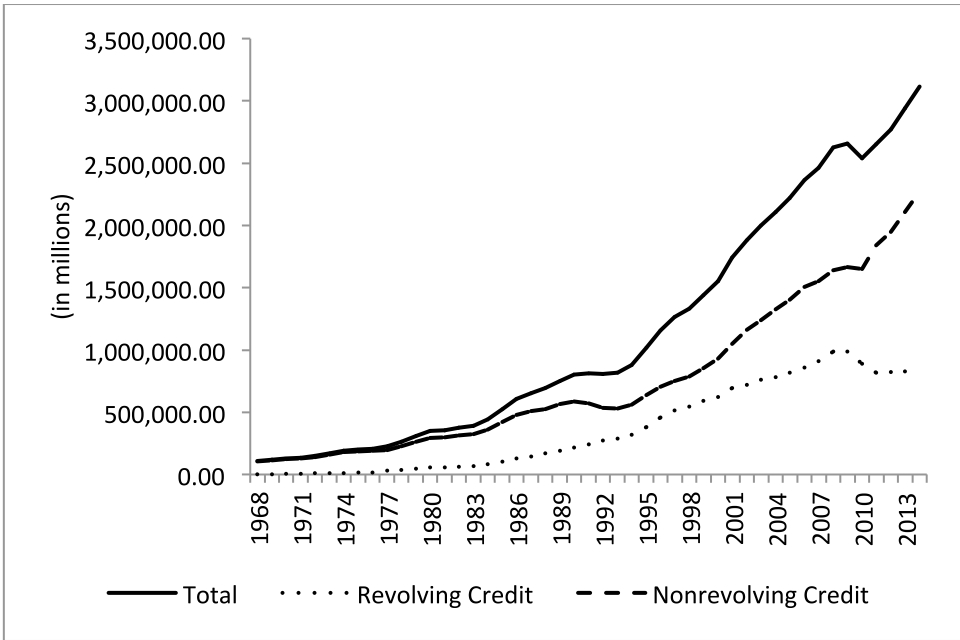
of consumers became a central focus of New Deal policies (Jacobs 2005, 2011; Cohen 2003). The Roosevelt administration believed that a boost to the construction industry, in particular, would have a significant positive impact on both the producers of raw materials and the labor market. They wanted to encourage the building of new homes and the renovation of old homes, but consumers lacked sufficient resources to finance this construction boom and financial institutions did not offer credit products for such a purchase. With the passage of Title I of the National Housing Act of 1934 (P.L. 73-479), a home modernization loan program, government stepped in to insure banks making small loans for home renovation to protect them against potential default. Interest rates on the small-dollar loans were low, but with the backing of government insurance the profits for banks were virtually guaranteed.

Banks' positive experiences with the modernization program showed exactly how profitable small consumer loans could be, and by the end of the 1930s small-dollar personal loans were a standard service provided by commercial banks (Hyman 2011). During World War II, creative attempts by bankers to circumvent government policies limiting the supply of credit to restrain consumption in the wartime economy would combine with improved technologies to launch the credit card. In the years that followed, bankers and policymakers alike embraced credit as fuel for the consumer economy. A 1972 report produced by the National Commission on Consumer Finance at the behest of Congress emphasized the "magnitude and the importance of the consumer credit industry, both as a lubricant which oils the wheels of our great industrial machine and as the vehicle largely responsible for creating and maintaining in this country the highest standard of living in the world." Since that time, the

significance of consumer credit to the U.S. economy has only grown.

In the last fifty years, consumer credit (and its associated debt) has become the "lifeblood" of the American economy (Manning 2000: 6; Williams 2004). Not only do consumers rely on credit to purchase everything from groceries to a college education, but the financial sector, which is funded in large part on the back of consumer credit, has become increasingly central to the U.S. economy. The so-called FIRE sector (finance, insurance, and real estate) comprised almost a quarter of the national GDP in 2000 (Krippner 2005).

Figure 1.1: Outstanding Consumer Credit, 1968-2014



Source: Board of Governors of the Federal Reserve, Consumer Credit-G.19

According to the U.S. Census Bureau, there were nearly 1.5 billion credit cards, held by 176 million cardholders, in circulation on the eve of the financial crisis in 2007. The average cardholder had at least four separate cards. The billions of credit cards and other credit products Americans are using to fuel their consumption

translates to a vast amount of consumer debt. The Survey of Consumer Finances, a cross-sectional study of the financial situation of U.S. families conducted every three years by the Federal Reserve, found that more than 46 percent of families carried a credit card balance in 2007. The median credit card balance for families who carried one was nearly three and a half thousand dollars.

As Figure 1.1 depicts, the debt generated by revolving forms of credit has risen dramatically over the last four decades. So too has the debt from non-revolving forms of non-mortgage credit. In combination, non-mortgage consumer credit exceeded two and a half trillion dollars prior to the financial crisis. Perhaps most concerning of all is the fact that American households had deleveraged by 2002, meaning their annual household debt outstripped their annual income (Dynan and Kohn 2007).

The U.S. Political Economy of Credit

Given its centrality to the economic wellbeing of individuals and to the country as a whole, it is no surprise that significant attention has been devoted to studying consumer credit. Early work focused primarily on the cultural changes that made lending palatable (Calder 1999; Mann 2002; Cohen 2003) and the technological advances that made it possible (Jappelli and Pagano 1993, 2002; McCorkell 2002). More recently, however, scholars have turned their focus toward two, frequently interwoven, political arguments to explain how, in the absence of a naturally occurring market, expanded consumer lending came to thrive in the United States: activists agitated for consumer credit and policymakers created institutions that made lending possible.

Progressive reformers (Calder 1999) and unions (Trumbull 2014) have both

been identified as contributing to the growing demand for consumer credit during the end of the nineteenth and beginning of the twentieth centuries. In the absence of more formal state welfare provision, these groups lobbied for expanded credit access to help support the growing cohort of industrial workers who, while generally making stable wages, occasionally needed access to emergency financial support. In the 1960s and 70s, women's, civil rights, and welfare rights groups engaged in renewed mobilization to expand credit access to their constituents, who had heretofore been excluded from many types of consumer lending (Prasad 2012; Trumbull 2014). It is notable that in both instances mobilization occurred around the expansion of access to credit for groups who lacked it and not around grievances from credit users themselves (Thurston 2014). While these studies all explore the role that societal coalitions played in facilitating the demand for consumer credit, a second research agenda focuses on the specific government interventions that made lending possible by making it profitable.

In a recent review of the historiography of the politics of consumption, Meg Jacobs cautions scholars to move beyond accounts of changing consumer markets that focus solely on the struggle between different societal groups. Echoing a call made by Lawrence Glickman to explore how consumer regimes have shaped consumption, Jacobs contends that, "we need to ask careful questions about how and in what ways the state has influenced consumer markets" (2011: 567). Indeed, from Tocqueville ([1835] 2004) to Polanyi ([1944] 2001), scholars have long acknowledged that the U.S. government fosters free markets and mass consumption through intentional policymaking. With respect to consumer credit, Louis Hyman (2011) best exemplifies

the call to examine the effect of government intervention on the growth of consumer markets. Hyman musters compelling historical evidence to support the argument that the policy innovations that created profitable credit markets and that later regulated credit usage have been responsible, sometimes unintentionally, for the growth and proliferation of credit products in the twentieth century.

Beyond these political explanations for how consumer credit emerged in the United States, scholars have further identified two specific, and interrelated, outcomes of the creation of profitable credit markets: the financialization of the U.S. economy and the creation of a credit-welfare state. First, several studies note the degree to which the U.S. economy has become increasingly dependent on the profits generated from financial products and services (Manning 2000; Williams 2004; Krippner 2005, 2011). This process, called financialization (see Arrighi 1994), began, according to scholars like Krippner and Manning, because policymakers in the 1970s and 80s turned to finance, and to consumer credit in particular, to avoid "economic, social, and political dilemmas" they faced in the midst of declining postwar prosperity (Krippner 2011:2). In particular, they argue, access to credit as a form of welfare support became a politically viable way to circumvent the issue of welfare retrenchment and to accommodate increasingly neoliberal policymaking (Manning 2000; Krippner 2011; Prasad 2012). Monica Prasad offers the most thorough description of the credit-welfare state in the United States. Tracing its emergence back significantly further than Krippner, Prasad (2012) argues that the United States adopted consumer credit as the primary mechanism to fuel mass consumption. This tradeoff, she argues, ultimately undermined support for more traditional welfare state programs. Both the

financialization of the U.S. economy and the creation of the credit-welfare state have been shown to contribute to increasing income inequality (Phillips 2002; Prasad 2012).

Each of these scholarly narratives describes a different piece of the emergence and economic effect of consumer credit in the United States. Taken together, these accounts begin to paint a picture of a U.S. political economy of credit: a system in which government policies were enacted to establish a profitable market for consumer credit in order to fuel an economy predicated on mass consumption. Prasad provides the most fully theorized understanding of the role consumer credit plays in the modern American political economy. Her focus, however, is largely directed toward the linkage between the regulation of credit to sustain a credit-welfare state, and the economic consequences of disrupting that linkage. Relatively absent from the existing discourse are considerations of the explicitly political consequences surrounding the creation of a political economy of credit in the United States, particularly as they relate to ordinary citizens, public interest groups, and prospects for policy reform.

I argue that, while the support of societal coalitions motivated by issues of welfare may have smoothed the way for the initial creation and later expansion of consumer credit markets in the United States, credit as a way to provide welfare through private means was, at best, a secondary benefit in the eyes of policymakers. Instead, the main goal of establishing a viable market for consumer credit was and continues to be promoting purchasing power to drive the growth and preserve the stability of the national economy. These two explanations may sound like they are one and the same, or at the very least that they are mutually supportive. The difference

between these two orientations toward consumer credit is that the welfare of individuals lies at the heart of the first explanation while the welfare of the national economy is central to the second. I argue that, by concerning themselves primarily with consumer credit as a way to bolster the national economy, policymakers have not only locked themselves into a path dependent set of policy alternatives to maintain that system, but the specific decisions they have made with respect to policy design, implementation, and administration have also significantly affected the preferences and behaviors of citizens and constrained the ability of advocacy groups to successfully lobby for consumer protection reforms.

A Theory of Regulatory Policy Feedback

Once enacted, public policies, particularly those that become durable features of the political landscape, have the capacity to shape future politics in a variety of ways (Lowi 1972; Hall 1986; Steinmo et al. 1992; Skocpol 1992; Pierson 1993; Mettler and Soss 2004; Mettler and SoRelle 2014). As Suzanne Mettler (1998) explains in her study of the gendered dimensions of New Deal social programs, policies "may legitimate the formation of certain social identities, determine the civic status attached to particular social roles, and produce particular organizational arrangements in society" (4). A growing body of scholarship explores the ways in which the design of a particular policy can shape people's conceptions of their own citizenship, including their relationships with the state and with one another (Schneider and Ingram 1993; Mettler and Soss 2004). Furthermore, studies have shown how the implementation of policies has the capacity to highlight or obscure government's role in service provision, ultimately shaping people's assumptions about

the appropriateness and efficacy of government intervention in certain policy areas (Mettler 2011). And finally, a number of scholars have detailed the ways in which government policies affect the emergence and capacity of interest groups (Walker 1983; Skocpol 1992).

The existing corpus of policy feedback scholarship—a term used to describe work that examines how policy shapes politics—focuses primarily on effects generated from what Theodore Lowi (1972) would classify as redistributive policies, particularly social welfare programs (e.g., Soss 1999; Campbell 2002; Mettler 2005; Chen 2013). These policies, which involve the transfer, or redistribution, of resources and rights, make it relatively easy to establish a direct link between the policy and the beneficiary. They typically apply to a specific and easily identifiable group. Redistributive policies also allow for the direct interaction of beneficiaries with some form of distributive mechanism. There is no reason to assume that these feedback mechanisms only manifest for redistributive policies, but the existing policy feedback literature may not map on to other policy types in as straightforward a manner.

Despite any welfare functions consumer credit may fulfill, consumer finance policies fall squarely into the category of protective regulations, which "are designed to protect the public by setting the conditions under which various private activities can be undertaken" (Ripley and Franklin 1987: 24). Protective regulatory policies differ fundamentally from redistributive polices in their design and implementation in two primary ways, each with implications for existing conceptions of policy feedback. First, while redistributive policies provide benefits directly to recipients, protective regulatory policies promulgate rules that initially affect businesses. The ultimate

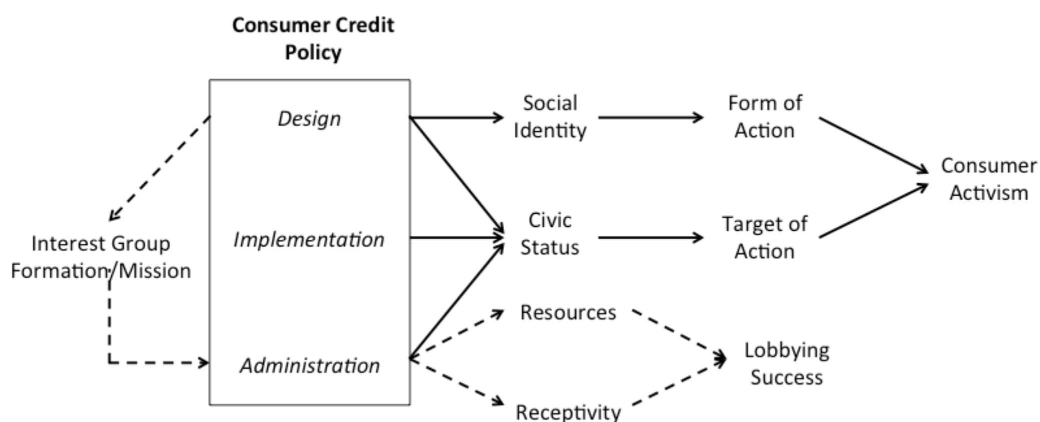
beneficiary is often still the citizen, but she only experiences policy remedies once they have been filtered through private transactions. Second, while redistributive policies usually target a distinct group (e.g., Medicare recipients), protective regulatory polices typically affect anyone who interacts with the regulated industry, meaning that beneficiaries are defined by their transactions rather than their ascriptive demographic traits. In the case of consumer credit regulation, for example, the breadth of policy beneficiaries will typically be defined by the use of the regulated financial product or service, so a credit card regulation may well affect nearly two hundred million Americans. These beneficiaries are unlikely to enjoy the same sorts of shared characteristics that the beneficiaries of a redistributive policy share.

Beyond these two distinctive features of policy design and implementation, regulatory policies have another important attribute that is currently absent from the policy feedback literature: federal bureaucratic agencies play a particularly significant role in the oversight and enforcement of regulations. This means that the bureaucracy is an especially important site for political contestation, and the administrative arrangements for a specific regulatory scheme bear significant weight on the ability of individuals and groups to engage in that contestation. To date, policy feedback scholarship has overlooked the potential for a given policy's administrative arrangement to produce feedback effects that constrain bureaucratic decision making and reshape the political participation of both public interest groups and citizens during the rulemaking process.

The following section develops a theory of regulatory feedback effects. It adapts insights from the policy feedback literature to the distinctive design and

implementation features of protective regulations, and it expands the scope of inquiry to include the administrative arrangement for a regulatory policy.

Figure 1.2: Regulatory Feedback Effects for Individuals and Interest Groups



Social Identity

As Figure 1.2 depicts, policies have the ability to shape people's conceptions of their own identity as it relates to that of others (Mettler and Soss 2004). Government policies can promote or depress particular group identities. Steve Engel describes the feedback effect of policy on identity formation as "a lens through which the regulatory authorities of the state see and define the individual" (forthcoming). The particular language and remedies inherent in a consumer credit policy's design can, therefore, teach beneficiaries lessons about their identity as consumers. This is achieved primarily through the construction of target groups to whom policies apply and the associated norms and benefits ascribed to those groups (Schneider and Ingram 1993). Typically, policymakers begin crafting policy by specifying a particular group to whom their policy applies—often based on some subset of shared demographic characteristics. The policy spells out who is a member of the identified group and who is not (Schneider and Ingram 1993; Mettler and Soss 2004). Often, members of the

group form identities, or constituencies, surrounding their beneficiary status and will coalesce to preserve and expand their benefits (Campbell 2002).

This process is fairly straightforward for regulatory policies that provide benefits or remedies to a small subset of the population. For example, the 2006 Military Lending Act (P.L. 109-364) imposed a usury cap of 36 percent on certain types of loans extended to service members and their families. The military families who benefit from these protections may come to understand that government has recognized them as a specific population—easily identifiable based on the shared characteristic of military service—that is deserving of protection. Such an identity would be relatively easy to mobilize around to protect or expand their benefits under this policy.

Most regulatory policies, however, apply to such a large and diverse segment of the population—for example, basic policies requiring information disclosures on credit card applications—that no such collective constituency is activated. Instead of providing benefits to a particular group with shared characteristics, policies like this provide benefits based on a set of transactions. As a result, consumers affected by these policies may come to understand their identity as a function of the transaction rather than as a function of group characteristics. With respect to consumer credit policies, those that provide benefits in a transactional manner may well personalize the procurement and usage of credit while suppressing any sense of collective group identity, while more traditionally targeted policies might activate collective consumer identities—an important prerequisite for creating an engaged constituent group.

Civic Status

Beyond their effects on group identity formation, Figure 1.2 shows how regulatory policy designs can also transmit norms about the relationship between citizens and the state for a particular set of issues, suggesting to beneficiaries what the appropriate level of government intervention is for that problem (Hacker 1998; Mettler 2011). If a policy intentionally obscures the role government plays in providing a certain type of benefit, the policy generates different norms from one that provides clear evidence of government activity in the provision of benefits. For example, exposure to consumer credit policies that encourage "voluntary" regulation suggest that government is not invested in mandating that consumers be protected from harmful financial products. Similarly, if regulations primarily focus on providing remedies that maintain fair market competition rather than intervening in the function of supply and demand by outlawing the sale of certain credit products, consumers may learn that, as long as transactions are "fair," consumers are accountable for their own financial affairs as responsible players in an increasingly complex market of financial products.

But norms generated by policy design are not the only feedback mechanism through which policies can affect individuals' attitudes about government intervention in a particular area. People's direct experiences with policy disbursement agencies have been shown to structure their attitudes about government efficacy and further their resulting political engagement (Soss 1999; Campbell 2002; Mettler 2005, 2011; Weaver and Lerman 2010). Of particular relevance are findings that a lack of obvious interaction with government during the implementation of a policy can encourage

citizens to underestimate the role government plays in a particular policy area, thus disincentivizing direct political action for that issue (Mettler 2011). This is especially important for understanding the feedback effects of regulatory policies because the direct recipients of government regulations are not consumers themselves. Businesses are the actual target of government regulation, so consumers are not responsible for complying with the policy's mandates. The result is that consumers, despite being the intended beneficiary of protective regulations, only indirectly experience the effect of a regulatory policy once it has been mediated through a private company. When the policy does not highlight government's regulatory power (e.g., through a label or notice of inspection by a government agency), consumers may not be aware that government played a role in regulating the transaction at all.

The administrative arrangement for a regulatory policy may further illuminate or obfuscate government's role in monitoring and enforcing particular policy mandates. If a single administrative agency is granted oversight for a policy area, people may come to associate that agency with its respective policy jurisdiction. This makes it relatively easy for individuals to identify the particular agency to target with grievances related to that policy. By contrast, when the regulatory authority for a particular policy area is dispersed across multiple agencies, it may be far more complicated for citizens to identify the appropriate government body responsible for addressing a particular concern. The degree to which agencies engage actively in citizen outreach, for example, through well-publicized field hearings, may also serve to boost recognition of government intervention for a regulatory issue.

Douglas Arnold (1990) argues that the electorate must be able to link

policymaking to a political actor in order to engage politically on that policy issue. A similar argument might be made for consumer responses to credit regulations. The combined effects of policy design, implementation, and administration on consumer perceptions of government's appropriate role in the regulation of credit can ultimately shape ideas about what grievances and goals should be pursued through political versus market means. So when a regulatory policy obscures the role of government in consumer finance, it will incentivize consumers to target market actors when dealing with problems that emerge. By contrast, consumer credit regulations that highlight the role of government in consumer finance will incentivize consumers to target political actors when expressing their grievances.

Organizational Capacity

Beyond the ability of regulatory policies to affect individual beneficiaries, they also have the capacity to shape the emergence, activities, and efficacy of interest groups. As Paul Pierson explains in one of the earlier articulations of the mechanisms of policy feedback theory, "The activity of interest groups often seems to follow rather than precede the adoption of public policies (1993: 598)." Indeed, Jack Walker, the noted scholar of interest group politics, argued in a study of organizations that arose in the post-war period that many interest groups emerged after the enactment of new polices because they could benefit from some form of patronage produced by the policy. Andrea Campbell's work on Social Security (2002) provides another explanation for the ability of a policy to spark the formation of new interest groups, arguing that new benefits produce new constituency groups with incentives to lobby on behalf of those benefits. As Figure 1.2 suggests, the emergence of new sites of

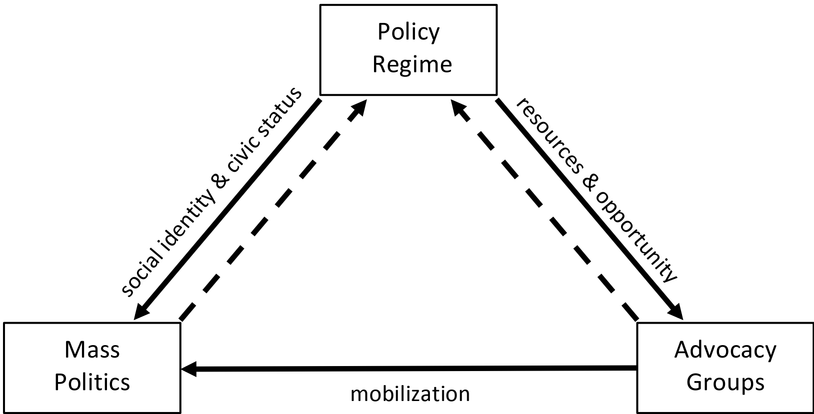
regulation may induce a similar process for groups concerned with the regulated industry. It is also possible that the absence of government policymaking for a particular issue may incentivize existing agencies to restrict their activities to non-political realms.

Beyond this, however, I argue that the specific administrative arrangement for a regulatory policy has the capacity to shape the landscape of contestation in which groups and individuals engage. Skocpol (1992) notes that "Patterns of bureaucratic development influence the orientations of educated middle-class groups as well as the possibilities for all social groups to 'do things' through public authority" (47). The particular arrangement of bureaucratic authority, therefore, has the ability to ease or complicate participation in the ongoing rulemaking process that determines the contours of most forms of protective regulation. Figure 1.2 demonstrates the two mechanisms by which this occurs. First, the degree to which oversight and enforcement authority are concentrated in a single agency may shape the application of interest group resources, with fragmented authority making it more difficult for advocates to develop relationships with regulators and concentrate their lobbying resources. Furthermore, the primary mission of administrative agencies with respect to a policy issue may shape the degree to which regulators are receptive to interest group lobbying. These two features can combine to lead to regulatory arbitrage, or the race to the bottom that occurs when multiple regulators must agree to the appropriate form of regulation on an issue. I contend that regulatory arbitrage may further diminish bureaucrats' receptivity to interest group lobbying.

Regulatory Feedback in the Political Economy of Credit

I argue that the ability of regulatory policies to shape the social identities and civic status of individuals and the organizational capacity of groups can explain much about the current state of consumer politics. Figure 1.3 proposes a model for how these feedback effects function within the U.S. political economy of credit.

Figure 1.3: Regulatory Feedback Effects in the Political Economy of Credit



Chapter Two discusses the development of the consumer credit policy regime in the United States. It argues that the creation of a U.S. political economy of credit eventually led to the adoption of disclosure requirements as the primary policy remedy employed to regulate consumer credit transactions. The chapter traces how New Deal policymakers built a government-backed infrastructure to jumpstart consumer credit in order to boost the construction industry and drive economic revitalization. In so doing, policymakers created a path dependent process in which consumer credit policies were and continue to be been designed to promote broad consumer purchasing power in support of the national economy. Drawing on archival research and legislative analyses of the major consumer credit policies enacted from 1934 to 2010, I construct

a dataset to capture how the mission to promote broad-based purchasing power translated into the specific remedies adopted by federal policymakers both before and after the most recent financial crisis.

Two critical tradeoffs were consistently made with respect to the design and implementation of U.S. consumer credit policies. First, in the absence of a naturally occurring market for legal small loan lending, New Deal policymakers chose to provide financial institutions with sufficient support to establish a private marketplace for consumer lending rather than to issue consumer loans directly through a government organization. Second, in an effort to broadly expand access to credit to boost the purchasing power of consumers, policymakers needed to ensure that consumers felt sufficiently confident in their abilities to acquire and use credit without constraining its overall supply. They accomplished these two goals by requiring that financial companies provide consumers with adequate information about credit products and services in order to minimize adverse selection, rather than by employing any sort of testing or prior approval process that might eliminate credit products before they reach the market and thereby restrict credit access. Having identified this equilibrium solution, legislators in subsequent decades were constrained by it, seriously limiting their ability to enact substantive reforms to consumer credit policy without undermining the foundation of the political economy of credit.

I argue in Chapter Three that these aspects of policy design—which I explore systematically using the dataset introduced in Chapter Two—also served to both privatize and personalize the practice of consumer lending in the United States. Consumer credit is privatized because government-backed market institutions, rather

than government agencies themselves, provide credit to borrowers. This obscures the government's key role in providing and regulating credit. Regulations of the consumer lending industry further privatize and personalize consumer credit because they assume a model of the consumer as an atomistic, rational market actor, treating the procurement and usage of credit as a personal financial decision in which the onus is placed on the consumer to make appropriately informed decisions.

I hypothesize that, in combination, this privatization and personalization of consumer lending discourages citizens from engaging in both individual and collective political action for grievances with consumer credit. Specifically, policy-generated assessments of credit as a personalized and privatized form of economic assistance shape borrower attitudes about their identity as consumers and the appropriate target of action for any grievances that arise from the use of credit. Figure 1.4 illustrates how these preferences combine to shape consumer action around credit policy.

Figure 1.4: Policy Design Features and Consumer Mobilization Strategies[11]

Type of Action		**Target of Action** Market	 Government
	Individual	*Transactional* ▪ borrowing and service decisions ▪ complaints to lenders ▪ complaints to business association ▪ individual product boycott	*Self-interest* ▪ complaint to public official ▪ lawsuit ▪ voting ▪ participation in rulemaking comments
	Collective	*Consumerism* ▪ boycotts ▪ buycotts	*Civic* ▪ protest ▪ participation in lobbying day ▪ class action lawsuit

When credit policies provide language and remedies that generate individualizing consumer identity, and they obscure the role of government, consumer preferences will align with transactional methods of pursuing grievances. Transactional consumer responses to grievances all take the form of normal market dealings like complaining directly to lenders or trade associations or moving business to another provider. When policies rely on market remedies but provide them to, or deny them from, an identifiable target population, consumerism is more likely to occur. This form of action includes taking part in boycotts and buycotts, or other mass responses directed at market actors.

Conversely, when policies provide sufficient evidence of government intervention, consumers might be more likely to engage in political action. When these policies provide transactional benefits, consumers will be most likely to engage in individualized, or self interested, political action. By contrast, when these policies provide remedies to a target population, collective political action may ensue. Consumers are, of course, exposed to multiple policies at any particular time, so the resulting lessons may be derived from the cumulative policy regime governing consumer credit rather than from each individual policy. I draw on existing public opinion data on consumer credit and regulation, compiled from a variety of sources, as well as original data from an online survey of a national adult sample to test the effect of policy-generated attitudes about who is responsible for problems with consumer credit on people's willingness to engage in different types of action in response to those problems.

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[11] Adapted from Maney and Bykerk 1994.

In Chapter Four, I explore how these feedback effects on individuals have inhibited advocacy groups' attempts to create successful collective action frames to mobilize consumers toward political participation. In order for advocacy groups to effectively mobilize consumers politically, they will need to utilize collective action frames that resonate with the beliefs of potential participants—beliefs that are "the internalized byproducts of socialization and publicly shared discourse" (Klandermans 1997: 4). Perhaps the most important marker of a resonant collective action frame is its salience in the minds of its targets (Benford and Snow 2000). So for interest groups to successfully employ a collective action frame that defines consumers as victims of corporate abuse and encourages them to seek redress from government, those themes must either resonate with consumer's experiences with credit or reshape them.

I draw on archival material collected from the Consumer Movement Archives and interviews with consumer advocates to explore the emergence of public interest groups dedicated to reforming consumer finance in the United States, and their success (or lack thereof) generating political mobilization among borrowers. In order to test whether the potential mismatch between consumer preferences and advocacy appeals limited organizations' abilities to engage consumers politically, I employ content analysis to identify the primary frames used by consumer activists over the last decade, focusing on AFFIL as a case study. I then engage original survey data to explore the effect of a typical appeal on an individual's willingness to take a requested political action. I draw on the contents of a retrospective probe included in the survey to determine how specific preferences shaped people's responses to that appeal. Finally, I employ an original survey experiment to see whether an alternative frame

that reminds people about government's role in regulating credit can, at least temporarily, increase their willingness to take political action.

In Chapter Five, I explore how two features of the administration of consumer credit policies constrain the capacity of advocacy groups to lobby on behalf of consumer credit protection. Again making use of archival material and legislative histories, I describe how policymakers chose to administer consumer credit policies through a fragmented regulatory arrangement that privileges the profit and stability of financial institutions over the protection of consumers. As consumer credit products proliferated, legislators delegated the primary rulemaking and enforcement authority to executive agencies. Instead of concentrating authority within a single agency, however, Congress distributed that authority across seven preexisting agencies based on the type of financial institution that administered a particular product. This so-called balkanization, or fragmentation, of regulatory authority for consumer credit products and services resulted in two significant effects.

First, as no single agency was tasked with the primary mission of protecting consumers and enforcing those protections, agencies focused chiefly on preserving the stability and profitability of financial institutions themselves (Levitin 2013; Carpenter 2014). As long as financial products were profitable for banks, which most predatory products were, advocacy groups had difficulty getting agencies to take consumer protection measures seriously. Additionally, agencies did not proactively investigate issues of consumer protection amidst an increasingly complex lending market. When agencies did address issues of consumer protection, the fragmentation of regulatory authority led to regulatory arbitrage, whereby financial institutions were often able to

play different regulatory agencies against one another to secure the least burdensome regulation (Carpenter 2014). I argue that, not only did these features of the administration of consumer credit policies constrain the ability of consumer advocacy organizations to successfully lobby for more stringent consumer financial protections, but they also diminished citizen engagement in the regulatory process. I test the first hypothesis using interviews with consumer advocates, and I explore the second with annual consumer complaint data collected by Consumer Sentinel.

The final chapter considers whether the CFPB will serve as a critical juncture, reshaping the future politics of consumer credit. While substantive changes to the design of regulatory policies largely failed, the creation of the CFPB does alter the administrative environment in potentially significant ways for future policymaking. The CFPB, which has centralized rulemaking authority for most (though not all) of the major consumer credit policies and has a primary mission of consumer protection and enforcement, has the potential to raise the profile of government in these market transactions. The agency has already pursued much more active investigation of products and outreach to consumers, and I draw on survey responses as well as interviews with consumer advocates to consider how the new agency might reshape policy content, ease the lobbying constraint on public interest groups, and encourage consumers to engage in more political action on credit problems. I also consider the substantial obstacles to each of these shifts.

Broadening our Understanding of Regulatory Policy

This project attempts to expand how scholars and policy practitioners understand both consumer credit politics specifically and policy feedback effects more

broadly. With respect to the former, the following chapters make three important contributions to the existing work on consumer credit. First, I paint a picture of the U.S. political economy of credit that differs in important ways from existing conceptions of credit and its role in macroeconomic politics. By focusing on the political and economic motivations of policymakers, and specifically their emphasis on national economic stability over individual welfare concerns, I draw different conclusions about why certain policies were adopted and, importantly, how that process led to specific elements of credit policy design, implementation, and administration.

Focusing on these details of consumer credit policy provides another departure from existing scholarship on consumer credit. Most work on consumer finance policy in the United States charts the various ebbs and flows in the amount of consumer credit regulation over time and in comparison to other nations (e.g., Vogel 2003; Prasad 2012), without paying much attention to the actual content of those regulations. As I will demonstrate, the content of consumer credit regulation has remained remarkably consistent over time, even as the degree of regulation implemented by federal policymakers has changed. And these policy details matter.

The final major contribution this project makes to our understanding of consumer credit politics is that policy details have important ramifications for politics that should not be overlooked. While other scholars have explored the economic consequences of consumer credit policy, the political consequences have been virtually ignored. In this project I detail how policy attributes can help to explain several interconnected facets of consumer credit politics in the United States, from

bureaucratic decision making to mass political behavior. This final facet provides a bridge to the more generalizable contributions the project makes to our understanding of how policies shape politics.

This study expands the current discourse on policy feedback effects in three important ways. First, it contributes to our understanding of how policies shape politics for a fundamental, though previously overlooked, piece of the welfare state. The increasing privatization of social service provision in the United States is a defining feature of the American welfare state, and scholars of policy feedback have increasingly explored how privatized welfare provision influences recipients' political behavior. Specifically, they argue that these policies, which often make benefits difficult to obtain and/or obscure the role of government in the provision of aid, can have a deleterious effect on recipient's political engagement (e.g., Soss 1999; Mettler 2011). But this line of inquiry has yet to consider the political effects for one of the most significant sources of government-supported private welfare provision in the United States: consumer credit. I attempt to fill that gap by adapting the logic of policy feedback to a new arena of public policy—protective regulations.

In doing so, this study not only offers insight into how policy shapes politics for a separate piece of the privatized welfare state, but it also moves beyond the existing scholarly focus on policy feedback effects for redistributive and distributive policies more generally. The theory of regulatory feedback effects presented in this chapter and expanded upon in the remaining pages can ultimately help us to understand how the design and implementation of regulatory policies that touch virtually every aspect of our daily lives—from the food we eat to the air we breathe—

can also shape how we engage in politics on behalf of those issues.

Finally, this project introduces an important innovation that is largely absent from the existing policy feedback literature: I contend that policies also have the capacity to influence politics through the administrative arrangement they adopt. Specifically, I will demonstrate that the degree of regulatory centralization combined with the primary competency of the agencies invested with administrative authority for a particular issue not only affect the regulations embraced by bureaucrats but also affect how both interest groups and individuals engage in regulatory politics. Expanding our understanding of policy feedback effects to encompass the regulatory arena is essential because the rulemaking process is an increasingly important site for political contestation, yet it is one that is often overlooked by both scholars and citizens.

The Importance of Consumer Credit Politics

The United States is a nation that runs on consumer credit. American consumers rely on an ever-evolving array of credit products to pay for their food, clothing, shelter, transportation, education, entrepreneurial endeavors, and an array of other goods and services. And the development of a profitable lending industry has itself become a key contributor to the growing American economy. Despite its political and economic significance, however, policymakers have largely failed to protect consumer financial interests, and consumers have largely ignored the political arena as a viable forum for pursuing grievances with increasingly predatory forms of lending. Not even calls from advocacy groups have been successful in turning consumers toward political action. While they have encountered occasional success

mobilizing consumers toward market actors, the impact of that mobilization is usually limited.

Consumers have accumulated some success in recent years pursuing market mobilization on behalf of comestible and durable goods—particularly when that mobilization is targeted toward a single producer and there are sufficient alternatives within the market. By selectively boycotting or buycotting, consumers of this category of products may be able to get individual producers to offer redress. But the ability of market mobilization to achieve success seems to rely on two factors: the choice and availability of other products in the market for consumption and the ability of consumers to get by without the product in question. For example, if a critical mass of consumers boycotts a fast food chain because it uses trans fats, they may have success in changing the company's policy because 1) consumers have plenty of alternative venues from which to satisfy their fried food cravings and 2) even without those alternatives, consumers would be able to meet their daily needs without the fast food products. The presence of these two criteria allows consumers to take meaningful market action.

These two conditions are unlikely to be met so easily for consumer financial products. First, there are relatively few meaningful choices when it comes to financial products and services. The federal preemption of stricter state consumer protections that began in the 1980s, coupled with the fact that most banks are now headquartered in states with minimal restrictions for those few statutes that have not been preempted, means that, while interest rates and overdraft fees may vary slightly by lender, the general trend in U.S. lending—particularly prior to the most recent recession—was an

industry-wide aversion to consumer-friendly terms and practices. This does not allow consumers to forgo products from one financial institution in favor of better terms from another lender.

And, unlike with fast food, access to consumer credit is a virtual necessity for most Americans. The U.S. economy is predicated on providing citizens with bountiful access to credit in lieu of a strong social welfare system. Because consumers need credit to cover their day-to-day expenses—especially low- and middle-income consumers who may not have sufficient savings on hand to deal with emergencies—consumers cannot simply boycott their credit cards to protest excessive fees. The necessity of consumer credit coupled with the lack of meaningful choice renders market mobilization relatively toothless as a means to acquire redress for consumer financial grievances.

Political mobilization, and its accompanying electoral accountability mechanism, may well be a more effective manner of successfully pursuing consumer financial grievances. So the fact that current borrowers largely ignore this alternative has significant implications for the ability of both consumers and consumer advocates to secure any significant change with respect to lending practices. Despite the existence of political opportunities and organizations with the resources and expertise to generate consumer political action, the inability of advocates to construct collective action frames encouraging political mobilization that will resonate with today's consumers, combined with a fragmented regulatory structure that is largely apathetic to the concerns of consumer protection, seriously hamper the implementation of meaningful consumer financial reform.

The consequences of failing to enact better protections for consumers are severe. As recent events ably demonstrated, growing debt borrowed under increasingly risky lending terms not only threatens the financial security of individuals but also that of the nation as a whole. But beyond these catastrophic events, the current system of consumer financial policy also has the potential to consistently exacerbate the already staggering socioeconomic inequality in the United States in multiple ways.

The current lending system contributes to the ever-widening gap between the bottom 80% percent of Americans and the top 20% of wealthier citizens. While disclosure requirements provide insufficient protection regardless of income, banks and lenders frequently privilege wealthy borrowers by offering lower interest rates, grace periods, and many other services that less affluent borrowers are not privy to. By contrast, middle- and low- income borrowers are subject to more costly credit, a plethora of high fees for minor mistakes, and an effective zero-tolerance policy before these fees kick in. The result is that wealthier borrowers are more insulated from the lack of stronger protective policy than are their less affluent peers.

These effects are exacerbated when accounting for the array of high-cost credit products, from pay day loans to prepaid credit cards, that are designed almost exclusively for less affluent borrowers. A recent study conducted by the PEW Small Dollar Loans Project found that, while members of almost every socioeconomic category reported using these types of loans, borrowers were disproportionately concentrated among specific communities. Lower-income, less-educated, younger, disabled, and African-American borrowers were much more likely to rely on high-cost loans than other groups (PEW 2012). No amount of information can make the terms of

these loans more affordable. Ultimately, the lack of stronger consumer financial protection regulation for the gamut of consumer credit products has the potential to disproportionately effect the finances of Americans who fall outside of the upper echelons of the socioeconomic elite, thus continually widening the gap between the haves and have nots in American society.

CHAPTER TWO

Full Disclosure: Policy Development and Constraints in the U.S. Political Economy of Credit

After nearly a decade of failed attempts, Congress finally passed the Consumer Credit Protection Act (P.L. 90-321) on May 22, 1968. President Lyndon Johnson quickly signed it into law one week later. More commonly referred to by the name of its first provision, the Truth in Lending Act (TILA), this law marked the first major federal regulation of the growing consumer credit industry in the United States. Its passage was a watershed moment for consumer activists, and it is the law under which almost all subsequent consumer credit regulations are incorporated. The law attempted, as stated in its opening declaration, "to assure a meaningful disclosure of credit terms so that the consumer will be able to compare more readily the various credit terms available to him and avoid the uninformed use of credit" (§102).

One decade after the implementation of TILA, the Federal Reserve Board commissioned a study on the efficacy of the disclosure provisions. As part of the Board's triennial Survey of Consumer Finances[12], card users were asked a number of questions to gauge both their awareness of the use of annual percentage rates (APR) in credit contracts and their ability to apply that information meaningfully to credit shopping. By 1977, awareness of the existence of an APR had reached 50 percent among all types of consumer credit borrowers, and seven of every ten credit card users (71 percent) had heard of the term (Board of Governors 1977). Unfortunately for policymakers, knowing that APRs existed and knowing what to do with them were

very different things. A summary of the 1977 results worries:

> "The only troublesome finding among these favorable, although possibly slow, trends [in APR awareness] is the discovery that the ability to use percentage rates to calculate dollar finance charges remains relatively uncommon. ... [H]eightened consumer awareness has not been accompanied by an increase in credit shopping." (7)

The authors of the report concluded that, "Truth in Lending Disclosures might warrant simplification." As the following chapter will demonstrate, however, the exact opposite occurred in the decades that followed. Either unwilling, or unable as I will argue, to throw out the proverbial baby with the bathwater, federal policymakers continued to rely almost exclusively on disclosure requirements to protect consumer credit transactions. They did so despite mounting evidence that disclosures were entirely unsuited to the task. As Elizabeth Warren explained in her well-known 2007 treatise "Unsafe at any Rate":

> "Financial products have become more dangerous in part because disclosure has become a way to obfuscate rather than to inform. ... [I]n the early 1980s, the typical credit card contract was a page long; by the early 2000s, that contract had grown to more than thirty pages of incomprehensible text."

Even as the financial industry collapsed around their ears in 2007, in part as a result of unsustainable debt generated by risky consumer lending practices, the major financial reform measures enacted by federal policymakers failed to depart from a model of consumer protection via information disclosure. Why, despite increasing evidence that disclosures are an ineffective form of consumer protection, have policymakers continued to rely on them as the primary—and in many cases the only—policy remedy designed to aid borrowers?

Traditional explanations point to the acceptance of a behavioral economic

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[12] A full description of the Survey of Consumer Finances can be found in the next chapter.

approach to regulation, one that prizes disclosure above all else (Beales et al. 1981; Hadfield et al. 1998). I argue, however, that the continued adoption of a failed policy cannot be justified purely as a rational economic choice. Instead I offer a political explanation. This chapter explores the development over the course of the twentieth century of what I argue is a political economy of credit in the United States: an economic arrangement, deliberately promulgated by federal policymakers, whereby governing institutions established and continue to support a consumption-based economy fueled by access to consumer credit. It is the required maintenance of this arrangement, one predicated on wide access to consumer credit, that I argue has created the imperative for information disclosure as the major approach to consumer credit protection.

The chapter begins by reviewing evidence that information disclosures have not been a successful method of consumer protection for borrowers. Turning to my proposed theory, the chapter next traces the evolution of the consumer credit policy regime in the United States.[13] I draw on archival research conducted at the Franklin Delano Roosevelt and Lyndon Baines Johnson Presidential Archives and the Consumer Movement Archives, legislative analyses, material from congressional hearings and the Congressional Quarterly Almanac, and invaluable historical and sociological scholarship on consumer credit to explore why and how New Deal policymakers chose to establish a government-backed infrastructure to jumpstart consumer credit in order to drive economic revitalization. Having addressed the

[13] It is not the goal of this chapter to provide an exhaustive history of the evolution of consumer lending in the United States. Anyone interested in that topic should consult the excellent works of Martha Olney (1991), Lendol Calder (1999), and Louis Hyman (2011).

foundation of the political economy of credit, I then trace how subsequent consumer credit policies were constrained by the need to preserve and expand broad consumer purchasing power to support this model of the national economy. Finally, the chapter considers the far-reaching consequences of this policy legacy not only for congressional policymakers, but also for the political behavior of consumers, consumer advocacy organizations, and bureaucrats as well.

The Trouble with Truth in Lending

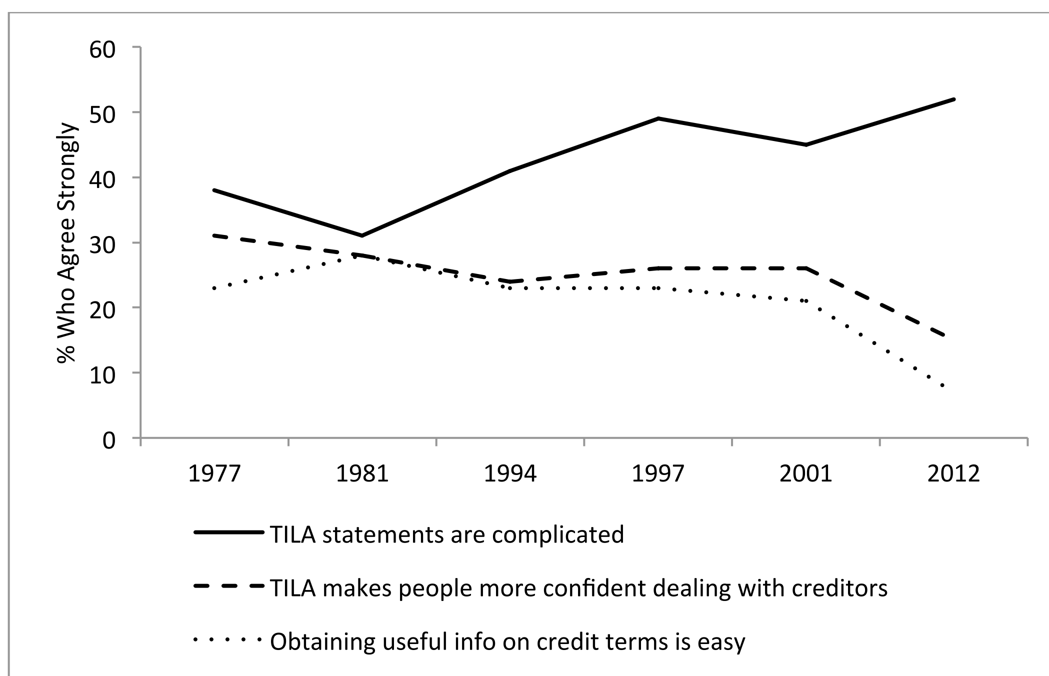
The traditional explanation for adopting disclosure requirements is largely rooted in principles of behavioral economics: information disclosure is seen as the most efficient and least onerous method of combating adverse selection and leveling the playing field between consumers and businesses (see Hadfield et al. 1998). As long as the consumer has access to sufficient information, the argument goes, the burden is on him or her to make smart decisions. The economic rationale for creating a fair market was no doubt part of the reason that policymakers embraced information as a policy remedy to combat lender abuses. Indeed, federal policymakers adopted labeling and disclosure requirements for food, drugs, and other consumer products over the course of the twentieth century.

The difference, however, is that food, drugs, and comestible goods also became subject to increasing inspection and safety protocols that continue to remain largely absent from consumer credit. As Elizabeth Warren (2009) articulated, "Missing from the financial products market...are basic safety regulations that protect consumers in other markets from exploding toasters, collapsing car seats, and tainted meat." And, as this chapter will demonstrate, even when policymakers have attempted

to enact more protective consumer credit remedies over the years, they rarely succeeded. Of course, if information disclosures alone were an effective means of protecting consumers from unscrupulous lending practices, then the absence of safety regulations would be understandable. But evidence suggests that they are not.

The introduction to this chapter provided some evidence that TILA was an ineffectual method of empowering consumers in the credit marketplace from the very beginning. As early as 1977, concerns arose about people's ability to use the information mandated by TILA. The Survey of Consumer Finances has continued to ask respondents to assess the efficacy of TILA requirements over time.

Figure 2.1: Efficacy of Truth in Lending Disclosures, 1977-2012



Source: Survey of Consumer Finances, 1977-2012

Figure 2.1 presents respondents' agreement with three statements about credit disclosure requirements from 1977 to 2012: 1) TILA statements are too complicated, 2) TILA makes people more confident when dealing with creditors, and 3) obtaining

useful information on credit terms is easy. These replies provide evidence that problems with TILA have not abated over time. In fact, they appear to have gotten worse.

The number of consumer respondents reporting that they "strongly agree" that TILA statements are complicated rose by about 20 percentage points from a low of 31 percent in 1981 to a majority (51 percent) in 2012. Nor is TILA accomplishing its intended goal of increasing consumer confidence—a necessity that will be discussed later in the chapter. The number of respondents who strongly agreed that TILA made them more confident in their interactions with creditors halved between 1977 and 2012, from 31 percent to 15 percent respectively. Finally, a diminishing group of respondents strongly agree that existing provisions make it easy for consumers to find useful information on credit terms. While consumers have always felt at a disadvantage with respect to finding helpful information on credit terms—only 23 percent strongly agreed that they could do so in 1977—that number declined to under ten percent by 2012 despite the growth of required information disclosure.

The conclusion seems clear: information disclosures are not an adequate form of consumer credit protection. So why have they remained largely the only remedy that federal policymakers have been willing to adopt? This is especially puzzling because policymakers have expanded their protective efforts to safety and inspection protocols for other types of consumer goods and services. Economic arguments are not sufficient to explain the distinctive treatment of consumer credit regulation. Instead, I argue, the answer is political.

The Policy Consequences of a Political Economy of Credit

I contend that, by concerning themselves primarily with consumer credit as a way to bolster an economic system reliant on mass consumption, policymakers have had to make specific decisions with respect to the design and implementation of consumer credit policies. In particular, as I identified in the previous chapter, I argue that policymakers faced a series of tradeoffs in their treatment of consumer credit, and at each point they adopted measures that would prioritize access over consumer protection and the financial security of institutions over that of individuals, decisions that have had significant political consequences.

Figure 2.2: Policy Tradeoffs in the U.S. Political Economy of Credit

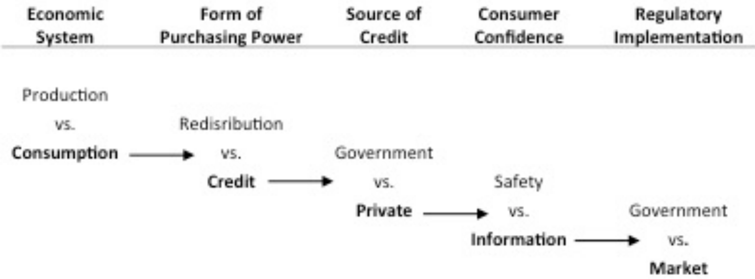


Figure 2.2 summarizes the policy tradeoffs that will be discussed in greater detail in this chapter. First, New Deal policymakers embraced mass consumption to revive a staggering economy, thus reorienting policymakers' focus from promoting a production to a consumption-based economy. Doing so required sufficient purchasing power to jumpstart industries that had been literally put out of business by the Depression. Policymakers could have introduced new forms of government social welfare, higher wages, or other schemes of redistribution to provide citizens with sufficient capacity to purchase goods. Instead, they opted to pursue consumer credit as

a means of generating new purchasing power—a decision that has been replicated in subsequent decades.

Policymakers were next faced with decisions about how to provide credit in the absence of a naturally occurring national market for legal small loan lending. Rather than creating a new government agency to directly make loans to consumers, an approach with waning political support after the creation of so many New Deal programs in that mold, Congress opted instead to incentivize private companies to make loans through a system of government insurance. As Mariner Eccles explained to Congress during hearings for the implementation of the National Housing Act, "There is no lack of money. It seems to me, however, that it lacks velocity" (National Housing Act 1934a: 7). With the passage of Title I of the National Housing Act of 1934, federal policymakers attempted to give "velocity" to the money sitting in banks. They created a system of home modernization loans, designed to stimulate the construction industry, whereby the government would insure private lenders willing to participate in the program in lieu of providing the funds themselves. It worked like a charm.

As banks discovered that consumer lending could be exceedingly profitable, the next two decades witnessed the evolution of several novel forms of consumer credit, especially the credit card. With the growing use of these new forms of consumer credit came growing opportunities for abuse by lenders. Congress, having firmly embraced credit as a way to support an economy of mass consumption (and increasingly to circumvent some of the sticky political questions associated with welfare provision), needed to find a way to inspire consumer confidence in credit

products, much like they had done decades before with manufactured goods. But having established a credit-fueled consumption economy, policymakers needed to do so in a way that would still allow for maximum access to consumer credit. In the absence of such an imperative, policymakers could have adopted minimum terms and safety standards to ensure that consumers could use credit with confidence. Regulations that prohibited the issuance of certain types of credit, however, would necessarily restrict the credit supply—particularly for middle- and low-income borrowers, so Congress adopted information disclosure as the primary policy remedy to promote fair market competition, thereby maintaining widespread credit access.

The following pages describe in greater detail the political battles that led to these policy tradeoffs, focusing in this chapter on policies enacted between 1934 and 2010. In order to systematically assess the presence of the distinctive policy features I argue resulted from the creation of a political economy of credit, I also explore an original dataset of all significant consumer credit policies passed during this period.

Consumer Credit in Agrarian America

The practice of consumer lending and government's eventual decision to regulate it may well be as old as any policy legacy in the world. Provisions against usury—charging exorbitant interest on a loan—were codified in the Code of Hammurabi around 1750 B.C. By the time America declared its independence from England in 1776, most states had usury provisions that capped interest rates on loans at around six percent (Ackerman 1981). But the types of consumer loans made during the fledgling days of the United States bear little resemblance to modern forms of consumer credit.

From the colonial period through the late nineteenth century, "open book" credit was the primary vehicle for lending (Calder 1999; Gelpi and Julien-Labruyère 2000). Conducted without legal contracts, wholesalers would extend credit, typically for comestible goods, to those customers who relied chiefly on seasonal income. This form of consumer lending happened primarily within the realm of retail transactions. The provision of open book credit was essential to support an agrarian economy and, later, to facilitate westward expansion. Farmers required tools and seeds to cultivate their land, and they relied on credit to purchase those supplies from local merchants (Quinn 2010). Many such credit transactions, however, were predicated on the goodwill of shop owners and the trustworthy reputation of individuals within the community.

America in the nineteenth century largely lacked both a unified national economy and a centralized state with the capacity to regulate either commercial or consumer financial affairs. Even after gaining independence, the United States existed for more than a century with the bulk of governance occurring in a piecemeal fashion at the state level in the so-called state of "courts and parties" (Skowronek 1983). Commercial financial disputes were typically managed within the court system (Glaser and Schleifer 2001), and despite the presence of usury laws, consumer financial affairs were dealt with almost exclusively between citizens and individual lenders.

Mobilization of agrarian interests in the latter decades of the nineteenth century marked the first significant attempt to engage the federal government in the regulation of credit (Sanders 1999; Quinn 2010; Prasad 2012). But this mobilization was

designed to secure credit primarily to facilitate production. Of course, consumption and production are not mutually exclusive activities. For example, smallholder farmers serve a productive function, but to the extent that they purchase supplies, storage, and transportation for their crops, they are also consumers. Nonetheless, the distinction is still an important one to make because at this point in time it was the economic and political interests of producers that was of primary import to governmental actors. Not until the 1930s, as we shall see, did the consumer interest become a significant concern for policymakers (Creighton 1976; Cohen 2003).[14]

The Credit Demands of Industrialization

The late nineteenth and early twentieth centuries witnessed a significant shift in the predominant form of production in the United States, and that change necessitated two new types of consumer credit. The industrialization of the American economy led to the rapid manufacture of myriad new consumer goods, but in order to be economically successful, manufacturers needed ordinary Americans to buy those goods. Extending credit to consumers for the purchase of specific manufactured products became a profitable solution, particularly for producers of large-scale durable commodities like furniture, appliances, and especially automobiles (Olney 1991; Calder 1999). Originating in the United Kingdom in the form of "hire purchase"—a practice that resembles today's rent-to-buy schemes—American retailers began to issue installment loans (Olney 1991; Calder 1999; Hyman 2011). An installment loan

[14] For much of the world's history, according to Raymond Williams (1999), the word "consumer" was primarily used as a pejorative term to describe those who used up valuable resources in a gluttonous or unrestrained manner. By the 18th century, however, "consumer" became part of the lexicon of the emergent bourgeoisie political economy that separated the functions of the making (production) and

is a form of closed-end credit extended for the purchase of a particular item in which the loan is repaid over a finite period of time with a specified number of payments. Interestingly, installment credit was not subject to usury laws because neither the state nor the courts viewed it as a traditional loan (Carruthers and Ariovich 2010; Hyman 2011). The result was that installment loans could be issued with fees in excess of what state usury laws permitted.

But the interest of retailers in financing the mass consumption of manufactured goods was not the only way that industrialization compelled new forms of consumer lending. The influx of workers to urban manufacturing centers disrupted many of the existing networks of personal financial support that existed within agrarian communities (Calder 1999). This new class of urban labor, primarily comprised of white males, no longer had access to familial sources of financial support to cover emergency expenses or brief periods of unemployment (Hyman 2011; Trumbull 2014). Nor did the burgeoning American welfare system offer benefits to this particular cohort to cover occasional financial shortfalls (Skocpol 1992). What these workers needed was a way to borrow small, undesignated sums that could be repaid once the borrower had overcome his temporary economic shock.

Unfortunately for workers, usury caps made the legal provision of such a loan unprofitable for lenders. At the turn of the twentieth century, the administrative cost to issue a small personal loan was roughly the same as that of a much larger loan. With state usury caps in place, the profit that could be generated from interest on a small loan was not sufficient to overcome their burdensome administration fee, so reputable

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using (consumption) of goods. The terms "producer" and "consumer" described each of the primary

lenders simply did not engage in small loan lending (Hyman 2011; Trumbull 2014). Instead, a more nefarious entrepreneur entered the market to fulfill the demand. Loan sharks provided credit to urban workers secured by their future earnings and incurring exorbitant, and illegal, interest rates (Calder 1999). Between 1880 and 1920 loan sharks would become an incredibly lucrative element of organized crime in America (Gelpi and Julien-Labruyère 2000).

Action was ultimately sparked by the idea that affordable consumer credit could serve as an ersatz form of welfare support for urban labor, and an alternative to the "loan shark evil" (see Fleming 2012) and the associated doubling of outstanding debt that occurred between 1900 and 1920 (Williams 2004). Progressive reformers and organized labor coalesced to pursue change first through market incentives and later through state-level legislation that would allow for new forms of legal small loan lending (Fleming 2012). Progressives embraced this battle as part of a larger campaign to improve the conditions of the urban environment. Unions mobilized because they believed that the availability of small loans would not only allow workers to combat occasional economic shocks, but would also facilitate their ability to engage in strikes (Trumbull 2014).

These groups initially turned to charitable foundations to help provide alternative, less predatory small loans (Hyman 2011; Trumbull 2014), an understandable decision given the total absence of federal policymakers from the regulation of consumer credit. In the early days of the twentieth century in New York City, for example, "as much as 10 percent of all relief dispensed by the New York

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actors of the capitalist market economy.

Charity Organization Society was provided in the form of credit" (Fleming 2012: 1078). Reformers hoped that these loans might induce market competition among financial institutions, but the provision of charitable credit was not sufficient to do so. The question of profitability still remained, and so reformers set out to find a way to make legal small loans lucrative for private financial enterprises.

The vehicle to do just that emerged from the Russell Sage Foundation in 1916 (Hyman 2011; Fleming 2012; Trumbull 2014). The brainchild of Arthur Ham, the Uniform Small Loan Law was proposed as a way to counteract state usury prohibitions while maintaining reasonable limits to interest charged on small loans. The model law suggested allowing lenders to charge a monthly interest rate of three and a half percent—a ceiling of forty-two percent annually—for loans under $300 (Gelpi and Julien-Labruyère 2000; Hyman 2011). State legislatures were targeted because, in a period of dual federalism, the primary authority for day-to-day governance still rested with the state (Grodzins 1966; Lowi 1988).

With the backing of Progressives, unions, and a number of lenders themselves (Trumbull 2014), four states had adopted a version of the small loan law within a year. By 1928, twenty-five states had a small loan law on the books (Hyman 2011). Interestingly, while a few commercial banks began making small loans after the passage of these laws (Trumbull 2014), the bulk of the loans were issued by a new class of financial institutions, which called themselves a number of things including industrial banks, personal finance companies, or licensed lenders (Hyman 2011). By the 1930s small loan lending had become both a profitable and a respectable business, with lenders numbering in the thousands. But the infrastructure for consumer lending

was still relatively small in scope, restricted to the activities of retailers and their installment loans and these new small dollar lenders (Hyman 2011). With the enactment of a seemingly minor provision of a single law, however, Congress and President Roosevelt would plunge the federal government into the expansion and regulation of consumer credit in 1934, forever changing the consumer loan market in the United States.

“Modernizing” Consumer Credit

The bank failures, massive unemployment, and widespread economic collapse that arrived with the Great Depression were too large for individual states to combat alone. As a result, a greater degree of policymaking authority was ceded to the federal government than ever before (Higgs 1987). President Roosevelt’s new administration was tasked with creating programs that would help the country to climb out of the economic crisis and subsequent recession. While the New Deal policies promulgated by the Roosevelt administration incorporated an array of intellectual approaches (Moley 1966), Roosevelt’s famed brain trust was particularly convinced that underconsumption was a major contributor to the economic collapse (Cohen 2003).

The belief that consumers and mass consumption were of fundamental importance to the American political economy was embraced by central figures of the administration early on. Roosevelt himself, in an address at Oglethorpe University in May 1932, professed, “In the future we are going to think less about the producer and more about the consumer.” An internal memo written by Frank Walker, Director of the National Emergency Council, dated January 8, 1934, notes that Secretary of Labor Frances Perkins was already referring to a “consumption economy.” Thinking like this

marked a turn from considering the economy in terms of production to terms of consumption. And by this logic, if policymakers were to jumpstart the ravaged economy, they needed to ignite consumption (Cohen 2003; Hyman 2011).

The method by which to do so was proposed by Winfield Riefler, an eleven-year veteran economic advisor for the Federal Reserve. Riefler argued that restarting the stalled construction industry was the key to turning around the economy (National Housing Act 1934b). As Harry Hopkins, the Federal Emergency Relief Administrator, explained during congressional hearings for the National Housing Act, "The building trades in America represent by all odds the largest single unit of our employment… More than one-third of all of the 4,000,000 families on the relief rolls are identified with building trades" (National Housing Act 1934a: 1). By focusing on putting the construction industry back to work, therefore, New Deal policymakers were convinced that the recession could be reversed. Rather than subsidizing the construction industry directly—a production-oriented policy approach—they began to explore potential programmatic efforts to stimulate construction by incentivizing the repair of the nation's housing stock, which had become increasingly dilapidated as homeowners squirreled away their meager savings during the Depression.

Of course, members of the Roosevelt administration were not the only ones to recognize the potential for a home modernization campaign to reignite the building trades. Companies like Hines and Johns-Manville employed advertising campaigns and promotions in an attempt to encourage consumers to engage in modernization (Harris 2012). But these businesses ran into the same problem that dealers of pricey durable goods had encountered years before, one that was compounded by the

economic havoc wrought by the Depression: consumers lacked the cash for repairs, but an appropriate form of credit to cover the purchases did not exist. Once again, it was left to the government to step in. This time, however, it was the federal rather than state governments that would intervene to provide an appropriate form of consumer credit to purchase these products and services.

The Home Owner's Loan Corporation (HOLC), established by the Roosevelt administration in 1933 to rescue mortgages in default, incidentally provided limited funds directly to homeowners for the completion of necessary repairs (Harris 2012). The demand for these funds was substantial, and the experience began to shape proposals for part of a new bill being developed to improve the nation's housing with an eye toward reinvigorating construction. The resulting National Housing Act of 1934 (P.L. 73-479) is perhaps best known for creating the Federal Housing Administration (FHA) and transforming mortgage lending in the United States, but it was the law's lesser-known Title I Home Modernization Loan Program that helped to revolutionize American consumer lending.

The goal of Title I was to encourage financial institutions to make loans to consumers for the designated purpose of home repair and renovation. Rather than issuing the funds directly to homeowners through a government agency as HOLC had done, however, Title I provided a system of government insurance to private lenders for up to twenty percent of the total value of loans made by a participating lender. Individual loans for modernization were not to exceed $2,000. While policymakers recognized the potential benefit of the policy for homeowners, it was at best a secondary goal.

The acknowledged mission of the policy was to boost consumption of the products and services provided by the construction industry. In a message to Congress on May 14, 1934, President Roosevelt urged passage of the Act, stating "The purpose of this program is twofold: First, to return many of the unemployed to useful and gainful occupation; second, to produce tangible, useful wealth in a form for which there is great social and economic need." Similarly, witness after witness during the congressional hearings for the bill echoed Hopkins' statement that "A fundamental purpose of this bill is an effort to get these people back to work... an effort to move the heavy industries" (National Housing Act 1934a: 2). Even news coverage of the Act made the goal of boosting consumption to put people back to work explicit to readers:

> "A government which has struck the fetters from millions of dollars in frozen credit today is begging its citizenry to modernize. It is calling on its citizens, as patriots, to take loans and buy new roofs for their homes, new heating plants, new wall coverings, new baths, to refurbish and build extensions and convert waste space into usable space. It is trying, in a nutshell, to end the depression by putting millions of men to work." (1934)

The home modernization program was a clear attempt on the part of federal policymakers to use credit to drive consumption in order to support the national economy. But why, if the appropriate credit market did not occur naturally, did policymakers turn to private entities to provide the loans necessary to support the desired consumption? Why not, instead, provide the loans directly through a government agency? The answer is twofold: policymakers believed that government-backed private loans were both more efficient and more politically feasible.

Roosevelt and his advisors learned important lessons from early New Deal attempts to replace functions of the market with direct government intervention. For

example, both the Public Works Administration (PWA) and HOLC relied upon direct government involvement in the creation and preservation of housing. Championed by Secretary of the Interior and head of the PWA Harold Ickes, direct government intervention in the traditional role of private industry was adopted because, as Ickes argued, “We have left it so far to private enterprise, and the conditions we have are the result” (New York Times 1933). But early federal housing programs proved only a limited ability to achieve their goals, and private actors were not pleased with the government’s entrance into what they perceived as the domain of business (Hyman 2011). As a result of these dynamics, the National Housing Act adopted a different approach. Hopkins explained to members of the House Committee on Banking and Currency, “[W]e believe it is essential that we unloose private credit rather than public funds in the repairing of those houses and the building of new houses” (1934a: 2).

The reasoning was framed primarily in practical terms. Eccles, then the Assistant to the Secretary of the Treasury, reported to Congress that financial institutions already had the capital to lend, it was simply a matter of encouraging them to do so—particularly commercial banks that had largely avoided extending personal consumer loans to date:

> “There is hardly a section of this country but what there are excess funds not working—not working, first, because the banks won’t take the risks involved and, secondly, because there is no adequate form of credit available on a sufficiently attractive basis over a period of time to induce borrowers to use that credit.” (National Housing Act 1934a: 7)

All government needed to do, therefore, was to provide an attractive loan vehicle and assuage banks’ concerns about the riskiness of issuing the new product. Furthermore, according to Eccles, insuring bank loans was much more cost effective

than providing the money directly to consumers:

> "The cost to the Federal Government is limited to $200,000,000 if a total of a billion dollars is loaned on these modernization and repair receivables, assuming that 20 percent of all the loans which are made are lost—which is almost inconceivable. ... If a billion dollars is put out in this manner, it would have the same effect by the Government putting out a hundred million as it would if the Government directly put out, through its relief agency or other agencies, a billion dollars. ... So if 200 million can act as a cushion to create the effect of a billion, it seems to me it is good business and good economy for the Government to provide that necessary cushion, rather than be forced, due to pressure of unemployment, to provide it all." (8)

In short, the government could spend much less to insure private lenders—even if they had to pay out the maximum amount of insurance—than it would to make the loans themselves. This message resonated with members of Congress, but practicality was not the only reason for routing the loans through private banks. Policymakers were concerned with the political viability of the program as well. Witnesses did not shy away from drawing distinctions between the proposed legislation and previous, and increasingly unpopular, federal programs designed to intervene directly in housing and other forms of economic support. In response to a question from Representative T. Alan Goldsborough (D-MD) about the economic soundness of subsidizing loans, John Fahey, Chairman of the Federal Home Loan Bank Board, responded:

> "In my judgment, it is a far better policy to risk the comparatively small sum of money involved here to induce employment and stimulate and encourage really constructive work, as against facing the possibility of appropriating another $500,000,000 or $900,000,000 or $1,000,000,000 to maintain people in comparative idleness through the P.W.A." (National Housing Act 1934a: 29)

The modernization loan scheme provided by the National Housing Act also had the support of businesses interests, who immediately saw the opportunity for

profit with very limited risk. As Louis Hyman explains “By working through private channels, the FHA did not seem like another one of Roosevelt’s unnecessary, possibly socialist, or fascist, boondoggles, but a valid capitalist enterprise” (2011: 59). And to make the program even more attractive to private interests, Roosevelt tapped James Moffett, the former director of Standard Oil in New Jersey, to head the new FHA and the Title I program. Moffett subsequently staffed the agency with businessmen from a variety of industries (Hyman 2011).[15] While some members of Congress were concerned (showing remarkable foresight) with the possibility that consumers would use this new type of credit as a way to “keep up with the Joneses” (National Housing Act 1934a: 32), the Act passed both chambers with bipartisan support by a vote of 176-19 in the House and 71-12 in the Senate (Congressional Record 1934).

The result was the creation of a government-backed private loan program designed to stimulate consumption within the construction industry to bolster the national economy. The program would be implemented through existing financial institutions, with the new FHA overseeing the process. The significance of this new policy to the Roosevelt administration’s effort to restart the economy through credit-backed consumption is evident in plans for its roll out. Both Eccles and Walker referred to a “campaign” to implement the program during the congressional hearings (National Housing Act 1934a). Each walked back their statements to ensure reluctant

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[15] The appointment of Moffett, with his corporate credentials, rankled Ickes, leading to constant—and occasionally public—battles between the two administrators. In a confidential telegram sent November 27, 1934 from White House Press Secretary Stephen Early to President Roosevelt’s traveling secretary Marvin H. McIntyre, Early writes “I sincerely hope that you will be able to keep Jimmy suppressed so far a[s] publicity goes while he is in Warm Springs. He and Ickes to all appearances are keeping their armistice agreement and are not continuing their row. Feeling[s] run deep, however, and while they personally may not be talking and may be keeping their promise they made me not to talk, I notice

members of Congress that they did not intend for the government to become involved in high-pressure loan sales. But that is exactly what the FHA tried to do.

The FHA hired Ward Canaday, a businessman with experience working in auto finance companies, to run the agency's public affairs program. Canaday helped to design a Better Housing Campaign to encourage businesses and consumers alike to make use of the new modernization loans. In a letter to Press Secretary Early sent on August 23, 1934, Canaday passed along a selection of newspapers with sample "Better Housing" sections, noting that he encouraged these papers to combine their real estate and housing sections "into regular Better Housing sections" to "build up the nucleus of a program of advertising...which will in large measure replace the advertising they have lost through the shrinkage in the number of automobile companies." An additional 45,000 radio broadcasts were run in the first six months of the program to publicize the loans (Harris 2012). The FHA also produced sample Better Housing brochures that communities could replicate to encourage their residents to make use of the modernization loans. The text in these brochures identify the role of the National Housing Act in facilitating the new form of credit:

> "For several years past, homes all over America have been steadily going down hill. Many property owners have been unable to pay for normal upkeep and repairs. ... Now is the time to make those improvements. The National Housing Act was designed to help you improve your property and increase its value and usefulness. Through one of the simplest and most reasonable systems of financing ever devised, the Act makes it possible for you to make delayed repairs and provide better surroundings for your family." (FHA 1934)

While the program did not single-handedly revive the economy, it was very successful. By October 1934, a mere four months after the Act was signed into law,

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almost every day stories appearing without attribution…describing Jimmy as victor in the clash with

news outlets around the country were touting the program's success. For example, an excerpt from a New York Times article published on October 17, 1934 proclaimed:

> "A total of $1,001,091 has been lent to date by the National City Bank for home modernization purposes under provisions of the National Housing Act. ...[the bank] added that property owners whose first monthly deposits had become due had shown the 'best payment record in the history of the bank's personal loan department.'"

Indeed, banks were incredibly pleased by the profits generated from the program. By 1935, about $254,000,000 dollars in modernization loans had been issued, comprising almost half of the total volume of funds generated by FHA programs, including the better-known mortgage financing (Federal Housing Administration 1935). Whereas only a few banks had personal lending departments in 1920, by 1940 at least 5,000 banks were registered as making Title I modernization and, importantly, a variety of other personal loans (Trumbull 2014). With this policy, the federal government clearly embraced a consumption-driven economy fueled by consumer credit. They also induced a new phase of consumer lending in the United States, marshaled to support the purchasing power of the nation's consumers. Having adopted these policies, the federal government put into place an economic system that, in order to maintain, would constrain subsequent policymaking efforts related to consumer credit.

Credit, Consumption, and the Wartime Economy

Between the growing use of installment credit and the personal loan boom that followed from the Title I program, consumer credit continued to fuel mass consumption throughout the thirties (Hyman 2011). As the country rerouted its

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Ickes."

productive capacity toward war making with the outbreak of World War II in 1939, the federal government once again recognized the centrality of credit to the nation's political economy. This time, however, President Roosevelt sought to restrict the supply of credit in order to drive down demand for consumer goods so that industry could focus on the production of war materiel (Trumbull 2014). Roosevelt enacted Executive Order 8843 on August 9, 1941. Claiming authority based on a specious reading of the Trading with the Enemy Act, the order directed the Federal Reserve to enact regulations to restrict installment credit (CQ Almanac 1947).

The resulting policy took form in Regulation W. It required consumers to make down payments of at least one third of the total purchase price for a number of consumer goods as a condition for taking out an installment loan. The total period of the loan was restricted to between twelve and fifteen months (CQ Almanac 1947). Regulation W was designed primarily by Rolf Nugent and Leon Henderson, who had worked together in the Remedial Loan Department of the Russell Sage Foundation before taking jobs in the Roosevelt Administration (Hyman 2011). They were careful to cultivate the opinions of prominent retailers so as not to alienate businesses that had come to rely heavily on credit. The result was a relatively weak law with lackluster enforcement. The Federal Reserve Board lifted most of the credit restrictions on December 1, 1946, and President Truman advised Eccles, who was by then Chairman of the Board of Governors, to lift the remaining controls in the spring of 1947 (CQ Almanac 1947).

The enactment of Regulation W is relevant to our story for two particular reasons. First, while it briefly departed from the trend in federal policies toward

expanding consumer credit, the creation of Regulation W is further evidence that policymakers realized how fundamental consumer credit had become as a driver of the American economy. Its regulation was, therefore, seen as key to the successful rationing of consumption. It is additionally important for the unintended consequences Regulation W wrought on the landscape of consumer lending in the United States. Regulation W focused on installment loans because its goal was to reduce credit specifically for the purchase of manufactured goods. And while retailers were relatively complicit in the regulation's construction, their acquiescence did not preempt attempts to work around the new rules. If the policy limited closed-end accounts, the obvious answer was to devise an open-ended credit plan to circumvent restrictions. That is exactly what retailers did. They began utilizing new Charga-Plate technology to issue revolving credit to their customers, paving the way for the introduction and rapid proliferation of credit cards (Hyman 2011). Credit usage, including the new credit cards, would skyrocket in the consumption boom of the post-war economy.

Regulating Credit to Promote Economic Stability

By the early 1960s, a political economy of credit was firmly in place. About half of all U.S. households were using some form of revolving credit in addition to existing closed-end consumer loans (Durkin 2002). As the use of consumer credit continued to grow in the post-war era, so too did the potential for abusive lending practices, particularly because revolving credit was not subject to state usury laws. In a special message to Congress on March 15, 1962, President John Kennedy acknowledged, "Consumer debt outstanding, including mortgage credit, has almost

tripled in the last decade and now totals well over $200 billion...in many instances, serious abuses have occurred." But President Kennedy's sole concern was not how lending abuses affected consumers themselves. Instead, he explained, "Excessive and untimely use of credit arising out of ignorance of its true cost is harmful both to the stability of the economy and to the welfare of the public." Once again, the importance of consumer credit to the national economy received top billing.

In response to a perceived need for a voice for consumers within government, President Kennedy established a Consumer Advisory Council (CAC) under the purview of the Council of Economic Advisors (Creighton 1976). Helen G. Canoyer, Dean of the New York State College of Home Economics at Cornell University, was appointed to lead the eleven-member council. The CAC was divided into multiple subcommittees, one of which was dedicated to consumer credit. There are several indications that the committee also recognized the relationship between consumer credit and economic stability. One of the core assignments to the committee was to "study the effect of consumer credit on the national economy" (CAC Preliminary Report 1963). Meeting minutes from Caroline Ware, a long-time consumer advocate and member of the CAC, note, "I think it is appropriate that we should give particular attention to consumer spending or the meeting of consumer needs and wants, as a generator of economic growth" (Ware 1962).[16]

While the consumer advocacy community initially greeted the CAC with excitement, it ultimately had very little real effect. A 1963 New York Times article

[16] Interestingly, when faced with the departure of a key committee member, the CAC decided to merge the Consumer Credit committee with the committee on Economic Welfare (CAC Preliminary Report 1963), a further indication of the perceived relationship between the two areas.

articulated the CAC's shortcomings, describing it as "an advisory group to an advisory group" and noting that "[t]he Administration does not quite know what to do with the Consumer Council and is trying to limit its activity as much as possible" (Loftus 1963). On January 3, 1964, President Lyndon Johnson made a fresh attempt to establish an executive council tasked with consumer protection. He created the President's Committee on Consumer Interests (PCCI) and appointed Assistant Secretary of Labor Esther Peterson to oversee the committee as the Assistant for Consumer Affairs (CQ Almanac 1964). But in a message to Congress on February 5, 1964 introducing the PCCI, President Johnson's remarks once again implied that the reason to protect consumers was primarily to protect the economy. He opened his speech saying "America's economy centers on the consumer" and went on to argue, "[t]he consumer credit system has helped the American economy to grow and prosper." He voiced support for legislative proposals to regulate credit to ensure the consumer confidence of borrowers in order to maintain that economic prosperity.

The primary legislative vehicle to deal with mounting concerns about consumer lending abuse and an associated diminution of consumer confidence was the Truth in Lending Act (TILA). Initially proposed by Senator Paul Douglas (D-IL) in 1959, TILA required the disclosure of a "simple annual rate" of interest calculated based on all charges levied to borrowers (S. 2755). Only four states—Massachusetts, Washington, Connecticut and Maine—had comparable legislation at the time. Proponents of TILA believed it could alleviate growing concerns about the deceptive pricing of loans. Opponents of the legislation, primarily retail businesses and banks, argued that revealing an annual rate rather than the traditional monthly rate might

confuse consumers and lead them to forgo using credit (CQ Almanac 1967).

Several iterations of the Douglas bill remained mired in the Senate Banking and Currency Committee for nearly a decade. The bill's failure was, in part, the result of staunch opposition to the measure from committee chairman Senator A. Willis Robertson (D-VA) (CQ Almanac 1967). The Eisenhower administration also opposed the bill when it was first unveiled. TILA eventually began to gather steam when Presidents Kennedy and Johnson, and their respective consumer committees, provided support for the legislation. Indeed, TILA was one of the four major policy proposals backed in the first (and only) report of the CAC issued in 1963. In the summary prepared by the Consumer Credit committee, the need for disclosure was supported with the following justification: "there is reason to believe that consumers who are informed about credit will use it with greater confidence, and thereby exercise a greater stabilizing force on the economy than will uninformed consumers" (CAC Preliminary Report 1963: 6). Like its predecessor, the PCCI also recommended passage of TILA, with members presenting key testimony during congressional hearings on the bill.

Ultimately, however, TILA's passage was enabled by the 1966 electoral defeats of both Senators Douglas and Robertson, whose longstanding feud over the legislation had poisoned its prospects (CQ Almanac 1967). Senator William Proxmire (D-WI) took up the mantle of TILA, but unlike his predecessor, Proxmire was willing to bargain some with lenders to ensure a feasible bill. During seven days of hearings on TILA (S. 5) held before the Senate Banking and Currency Committee in April and May of 1967, supporters were quick to note that the legislation was not intended to

restrict or limit the terms creditors could offer, rather to provide information to enable consumers to shop in a fair marketplace. Senator Proxmire opened the proceedings with the following statement:

> "We are considering a full-disclosure bill and nothing more. The bill does not regulate credit. The bill does not tell lenders how much they can charge. The bill contains no assumptions that credit is bad. ... Instead, the bill aims at providing consumers with the facts they need to make intelligent decisions on the use of credit." (Truth in Lending 1967: 1)

Similar to testimony presented during hearings on the National Housing Act more than thirty years before, supporters of TILA also emphasized the limited nature of the intervention being proposed. They highlighted that information disclosure was a minor correction to the free functioning market, rather than a more onerous government intervention. Even Senator Douglas, the first witness during the Senate hearings, echoed this line of reasoning in his testimony:

> "The basic philosophy behind truth in lending is a belief in free enterprise and in the price system. But if markets are to function properly, there must be a free flow of information. ... By increasing the amount of information on consumer credit, we will remove a major imperfection in the marketplace. The alternative to regulation by the market is regulation by the government. This tends to be less efficient and leads to an increase in governmental power which conservatives deplore." (Truth in Lending 1967: 50-51)

Beyond attempting to downplay the severity of the proposed regulations, testimony during hearings for the bill also highlights the degree to which TILA was framed as a measure designed to ensure economic stability. Indeed, even business opposition to the provision engaged with the national economy frame, although disagreeing with it. For example, Louis Rothschild, the Executive Director of the Menswear Retailers of America trade association, posed his criticism of the bill arguing that TILA "is not a proposal to regulate economic stability and currency and

moneys of this country but is a sweeping effort to regulate and control the business morals of this country" (Consumer Credit Protection Act 1967: 593).

The Senate eventually passed the bill by a vote of 92-0 on July 11th, 1967 (Congressional Record 1967), but the compromise crafted by the Banking Committee excluded revolving credit accounts from the new annual rate reporting requirements in order to avoid the most contentious issue in the hearings. It also carved out loans with finance charges lower than ten dollars. Under the leadership of Representative Wright Patman (D-TX), a self-styled populist well known for attacking banks (Young 2000), members of the House Banking and Currency Committee were not so willing to exempt revolving credit. The House version (H.R. 11601) extended the annual rate reporting requirements to revolving credit accounts and eliminated the carve out for loans with small finance charges. Perhaps unsurprisingly, witnesses from the Administration supported these provisions. Interestingly, however, many business owners became unexpected proponents of the more stringent house bill, expressing the opinion that if a bill was to be passed at all it ought not to discriminate between open- and closed-end credit. Representative Leonor Sullivan (D-MO) described the position of these lenders to a conference of consumer advocates in 1967:

> "Believe it or not, our greatest hope right now in getting through a strong bill which would treat all forms of consumer credit alike seems to rest in the efforts being put forward by a group which would really prefer no legislation at all— the small town and big city furniture dealers, who sell on the installment basis, and who have warned their Congressmen that they may be put out of business if they have to tell their customers they are charging at the rate of 18 percent a year, say, for credit arrangements similar or identical to those which the department stores, or Sears or the others on revolving credit, can offer at the expressed rate of 1—1/2 percent a month." (Sullivan 1967)

The House eventually passed the bill by a vote of 383-4 (Congressional Record

1968), but the conference committee remained in a stalemate for several months over the revolving credit provisions (CQ Almanac 1968). Eventually, a bill was reported and passed that required both open- and closed-end credit accounts to report a monthly and an annual rate of interest (H. Rept. 1397), and the bill was signed into law on May 29, 1968. TILA's primary remedy, information disclosure, was to be administered entirely through existing market transactions with no obvious allusion to government's role in the regulation.

Given its reputation as a landmark consumer protection policy, anyone reading the opening rationale for the law might be justifiably confused to discover that the term "consumer protection" does not appear at all. In fact, individual consumers are not even mentioned until the end of the "Findings and Declaration of Purpose," which reads as follows:

> "The Congress finds that economic stabilization would be enhanced and the competition among the various financial institutions and other firms engaged in the extension of consumer credit would be strengthened by the informed use of credit. The informed use of credit results from an awareness of the cost of thereof by consumers." (§102)

On the surface it seems strange that the declaration of purpose for the Consumer Credit Protection Act makes no explicit mention of protecting consumers. However, it makes a great deal of sense in the context of the political economy of credit. The law's opening provides further evidence that members of Congress were concerned primarily with protecting the national economy and its constituent financial institutions and not the individual credit user. Even consumer czar Ester Peterson's remarks to a national gathering of consumer advocates, made during the fight to pass TILA, reflect the understanding that informing consumers was ultimately designed not

for their own safety but for the stability of the national economy:

> "In too many cases, the supposedly sovereign consumer is not given all the information necessary to allow him to be master of his kingdom. In many cases, he cannot use his full power of selection, which is the primary device for registering consumer needs and desires. If our free economy is to work properly, the consumer must have enough information to make rational decisions. ... An informed buying public is no less essential to a free market system than an informed citizenry is to a free political system." (Peterson 1967)

Having firmly established a political economy of credit decades earlier, policymakers in 1968 were constrained by the need to ensure that sufficient access to credit existed to retain the viability of the system. Earlier experiences with the tension between state usury caps and the availability of credit showed policymakers that restricting the terms and types of credit that were legally permissible would necessarily limit the supply of credit, particularly for the increasing proportion of middle- and even low-income borrowers. By contrast, policymakers believed that requiring lenders to disclose the terms of credit to consumers could still inspire the necessary consumer confidence to keep people taking out loans, without preemptively limiting the amount and form of credit that could be extended.

In short, because policymakers had adopted an economic system that promoted access over consumer protection, there really was no practicable policy alternative to information disclosure. This phenomenon was born out in congressional debates over the bill. For example, Representative Sullivan, a proponent of more stringent consumer protections, initially proposed incorporating a provision in TILA that would require a national interest rate cap of eighteen percent, but the amendment was dropped after strong opposition both from business and other members of Congress

(CQ Almanac 1968).

Civil Rights, Social Rights, and Expanding Access to Credit

A related debate, which took place on the heels of TILA's passage, offers yet more evidence that policymakers were convinced of the importance of ensuring widespread credit access to maintain national economic stability. By the 1970s, another front had opened in the dispute over consumer credit policy: ending discriminatory lending practices. At the fore were two distinct campaigns calling for expanded access to credit for women. The first, waged predominantly by white, professional women, framed access to credit as a civil rights issue. As part of a larger movement to secure economic and political rights for women, organizations began lobbying Congress to pass legislation to outlaw discrimination in the extension of credit based on sex and marital status. Activists were careful to frame credit as a privilege that should be enjoyed by all those who were creditworthy (Trumbull 2014); they simply argued that women should be judged on the same economic considerations as their male counterparts. As Representative Sullivan articulated during 1974 hearings held before the House Banking and Currency Subcommittee on Consumer Affairs, "The overall problem" is "making consumer credit available to all creditworthy Americans."

Members of the National Welfare Rights Organization (NWRO) comprised a second group of women demanding access to credit. Unlike their more affluent, predominantly white counterparts, however, NWRO members quite correctly argued that credit had become a fundamental aspect of economic citizenship in the United States, making access to it not a civil right but a social right that should be enjoyed by

every American (Trumbull 2014). They argued that existing policies largely excluded them from participating in the affluent consumer society of the post-war era, and members staged a number of sit ins at department stores like Sears to protest their lack of access to credit (Kornbluh 1997). Congress was not wholly opposed to the idea that currently marginalized participants in the national economy should enjoy access to credit.

In the late 1960s and early 1970s, politicians became more interested in the possibility that "ghetto credit" might be a good way to solve a number of pressing concerns about the state of the inner city. Indeed, over four days in 1968, the Senate Banking and Currency Subcommittee on Financial Institutions held hearings on "Private Investment in the Inner City." In his opening statement, subcommittee chairman Senator Proxmire articulated concerns over the state of the "inner core area, or ghetto area" of American cities, posing to witnesses the following question: "What is the proper role of government and private financial institutions in meeting urban problems? Are new types of governmental or quasi-governmental agencies needed, or can private institutions do the job" (1)? With the exception of Senators Walter Mondale (D-MN) and Charles Percy (R-IL), the general consensus was that existing financial institutions could help to alleviate the plight of the ghetto with the backing of government.

This thinking was all part and parcel of a return to treating credit as an ersatz form of welfare. As Matthew Hilton explains, "The mobilization of the state around issues of consumption created opportunities for those who saw in the consumer a citizen around whom modern welfare regimes could be built" (2007: 69). Whereas the

provision of credit as welfare was directed toward white workers at the beginning of the twentieth century, the 1970s and 1980s saw a return to the idea that the market could provide welfare for low-income Americans just as easily as government itself could—a fundamental pillar of what would become the "third way" politics in the 1990s (Ramsay 2007; Krippner 2011). Providing welfare support through access to credit also fit comfortably within the larger goals and infrastructure of the political economy of credit.

With these two movements for access to credit as a civil and a social right in the background, Congress enacted the Equal Credit Opportunity Act in 1974 (P.L. 93-495). The law prohibited discrimination on the basis of race, color, religion, national origin, sex, marital status, age, and receipt of public assistance. Interestingly, when the House Banking Committee marked up the original bill, it did not include explicit provisions for sex or marital status. Representative Marie "Lindy" Boggs (D-LA), upon noticing the omission, added the provisions without notifying her colleagues on the Committee. When she distributed copies that she had made herself, she addressed her colleagues saying, "Knowing the members composing this committee as well as I do, I'm sure it was just an oversight that we didn't have 'sex' or 'marital status' included. ... I've taken care of that, and I trust it meets with the committee's approval" (Good 2013). They did not argue.

The bill passed the house by a vote of 282-94. Seventy-eight percent of House Democrats supported the bill along with fifty-one percent of House Republicans. The Senate adopted the measure by a vote of 89-0 (Congressional Record 1974a, 1974b). The large, generally bipartisan, support garnered by the bill is another testament to the

importance policymakers placed on access to consumer credit. Despite the rhetoric of civil and social rights, however, the justification for the bill was once again framed in terms of the national economy:

> "The Congress Finds that there is need to insure that the various financial institutions and other firms engaged in the extensions of credit exercise their responsibility to make credit available with fairness, impartiality, and without discrimination on the basis of sex or marital status. Economic stabilization would be enhanced and competition among the various financial institutions and other firms engaged in the extension of credit would be strengthened by an absence of discrimination…" (P.L. 93-495 § 502)

We Can All Agree on One Thing

As federal policymakers worked to expand access to credit to maintain the political economy that was set in motion in 1934, lenders found themselves extending credit in increasing numbers to borrowers they deemed risky. A variety of what consumer advocates term "exotic" credit products began to proliferate to serve that expanding population of borrowers. Yet, public policy continued on largely as it had before. As the following section demonstrates, 18 significant non-mortgage consumer lending regulations were passed between 1968 and the 2008 financial crisis, almost all of which adopted information disclosure as the sole form of "protection."

I created the Consumer Credit Policy Dataset (CCPD) in order to systematically analyze the features of U.S. consumer lending policies. The full dataset includes every significant non-mortgage consumer lending policy passed by the federal government from 1934 (when the National Housing Act was enacted) to 2010. Significant policies were identified in three steps. First, I compiled the list of policies for which each relevant regulatory agency has jurisdiction. I then supplemented this list with any additional policies identified in the prominent historical literature on the

evolution of consumer credit in the United States (see Calder 1999; Hyman 2011; Prasad 2012; Trumbull 2014). Finally, I systematically searched both the Congressional Record and the Congressional Quarterly Almanac for the relevant time period to identify any other policies or major policy reforms. I have excluded from the dataset policies that primarily provide technical corrections or updates without making substantive policy changes. The result is a dataset consisting of 22 consumer credit policies enacted between 1934 and 2010.

The following section explores the primary remedy employed by consumer credit policies in the United States that were enacted prior to the recent financial crisis. I created two dummy variables to capture the remedy prescribed by a particular policy. Specifically, the remedies for each policy are coded to distinguish between those designed to ensure fair market competition through information versus those that dictate specific safety and protective limits on the financial product or service. As previously discussed, information disclosures are the most prominent form of remedy used to bolster fair market competition across all types of consumer products (Beales et al. 1981; Hadfield et al. 1998), so a dummy variable is included to measure whether the policy establishes new information disclosures. A second dummy variable is constructed to measure whether a policy provides any protective remedy, for example, by outlawing certain types of practices or placing limits on the amount of interest charged for a transaction. These two types of remedies are included as separate dummy variables because policies may contain multiple remedies.

As Table 2.1 reports, more than eight of every ten consumer credit policies (83 percent) employ information disclosures. In fact, every single credit policy enacted

since 1974 includes at least one significant disclosure requirement.

Table 2.1: Consumer Credit Policy Attributes, 1968-2010

Year	Policy	Policy Remedy	
		Disclosure	*Protective*
1968	Consumer Credit Protection Act		x
1968	Truth in Lending Act	x	
1970	Fair Credit Reporting Act	x	x
1970	Provisions Relating to Credit Cards (Title V)		x
1974	Equal Credit Opportunity Act		
1974	Fair Credit Billing Act	x	x
1976	Truth in Leasing Act	x	
1977	Fair Debt Collection Practices Act	x	x
1978	Electronic Funds Transfers	x	x
1980	Truth in Lending Simplification and Reform Act	x	
1988	Fair Credit and Charge Cards Disclosure Act	x	
1988	Home Equity Loan Consumer Protection Act	x	
1991	Truth in Savings Act	x	
1996	Omnibus Consolidated Appropriations Act	x	
1996	Consumer Credit Reporting Reform Act	x	x
1996	Credit Repair Organizations Act	x	x
2003	Fair and Accurate Credit Transactions Act	x	x
2006	Military Lending Act	x	x
	Total	83%	56%

Many of these laws reflect disclosure requirements for new technologies in the consumer lending market. For example, as the use of credit reports increased, Congress enacted a series of laws, beginning with the Fair Credit Reporting Act of 1970 (FCRA), which mandate the disclosure of credit reporting information to consumers. The most recent, and perhaps most widely-known, update was the 2003 Fair and Accurate Credit Transactions Act, which allows consumers to request a free credit report once every twelve months. As with TILA, these additional disclosure

laws continue to emphasize the importance not primarily for consumers themselves, but for the stability of the financial system as a whole. As the declaration of purpose for the FCRA explains:

> "The banking system is dependent upon fair and accurate credit reporting. Inaccurate credit reports directly impair the efficiency of the banking system, and unfair credit reporting methods undermine the public confidence which is essential for the continued functioning of the banking system." (§602)

Another major addition to the growing slate of consumer credit disclosure requirements was enacted in the Fair Credit and Charge Cards Disclosure Act of 1988. The "Schumer Box," named for the bill's sponsor then-Representative Charles Schumer (D-NY), requires a credit card issuer to provide specific information about the card's APR, annual fee, and other interest charges in any promotional material.

Most of the credit laws enacted after 1968 were designed to increase regulation through additional disclosure requirements. But three laws passed during the de-regulatory turn that accompanied the election of President Ronald Reagan were actually designed to roll back some of the exiting requirements (P.L. 96-221; P.L. 104-208). While many narratives focus on the deregulation of consumer financial regulations that began in the 1980s, it is interesting to note that even these attempts primarily revolved around disclosure requirements. Both the Truth in Lending Simplification and Reform Act of 1980 and the credit provisions of the Omnibus Consolidated Appropriations Act of 1996 attempted to deregulate through the simplification of disclosure requirements.

While the overwhelming majority of consumer lending policies relies upon information disclosure as the primary form of consumer protection, just over half (56

percent) include some form of protective regulation. That may seem like a significant number of non-disclosure remedies, but unlike with the disclosure requirements codified in these policies, many of the protective provisions are relatively minor aspects of each law. For example, the main protective remedy created by the 1968 Consumer Credit Protection Act includes the Title III prohibition on wage garnishment discussed earlier in the chapter. This title pales in significance to the disclosure requirements central to the same law, not least of which was the creation and required reporting of the APR. The wage garnishment prohibition also had little ability to affect the supply of credit, as it was not a direct ban on a lending product, rather on a method of debt collection. And even this minor provision was justified in terms of the national economy, noting that garnishment might "hinder the production and flow of goods in interstate commerce" (§302).

Several other protective remedies follow this mold. The FCRA restricts what can be included on a credit report (§605), but that provision is directly related to the larger disclosure elements of the act. The Fair Credit Billing Act of 1974 is predominantly a bill to mandate that consumers are furnished with certain information on their monthly statements, but it also includes a provision that allows consumers to dispute any billing errors (§302)—another protective remedy directly tied to information disclosure. The Electronic Funds Transfer Act of 1978 is once again focused on disclosure requirements for EFTS, but it also includes a short provision stating that an EFT cannot be made compulsory for a borrower or account holder (§905). More than half of all the protective measures accounted for in this data are ancillary to the primary focus on disclosure requirements in the law.

There are, however, a few notable exceptions. Three of the consumer credit laws enacted between 1968 and 2008 provide significant, and central, protective remedies. First, Title V of the FCRA, “Provisions Relating to Credit Cards,” prohibits the issuance of unsolicited credit cards and sets the maximum liability for unauthorized use of such a card at 50 dollars. This act was passed in response to the growing practice among credit card companies of sending people active credit cards in the mail with no prior application on the part of the recipient. Not only did this custom have an effect on people’s credit scores, but it also lead to significant credit card fraud as cards were stolen out of mailboxes or after being discarded. Outlawing this practice did not so much reduce the availability of credit as it reduced credit card fraud.

The Fair Debt Collection Practices Act of 1977 is the second law that introduced a major protective remedy. In this case, the law implements a number of rules that debt collectors are obliged to adhere to when trying to collect a debt. For example, they cannot call outside the hours of eight a.m. and nine p.m. local time, nor can they communicate with you at work if you have asked them not to (§805-808). Once again, the protective measures have little effect on the overall supply of credit. Instead, they enact simple restrictions to prevent the harassment of borrowers.

But perhaps the most significant piece of legislation to rely primarily on a protective remedy was the 2006 Military Lending Act (MLA). Part of the larger defense appropriations act for 2007, the MLA enacted a 36 percent interest rate cap on a variety of consumer loans made to active duty military and their family members (§605). While this law also included information disclosure provisions, in a rare turnabout they were secondary to the protective interest rate cap. This act represents

the most significant diversion from the tendency to eschew protective policy remedies in favor of information disclosure for consumer credit. And it is hard to dispute that the MLA's rate cap restricts the supply of available credit, at least for one group of borrowers. So why was this provision enacted if it is seemingly at odds with the goals of the political economy of credit?

In this particular case another mandate prevailed. Military commanders and the Department of Defense were concerned that the dramatic increase in service member indebtedness actually posed a threat to military preparedness. In an August 2006 report issued by the DOD, the department estimated that nearly one of every five (17 percent) military personnel members used payday loans. In a particularly damming assessment of the power of information to protect borrowers, the report notes how the DOD and commanders employed several methods to provide information and education to service members about the potential dangers of risky loans, but they were not sufficient to curb the problem. Instead, the DOD endorsed a 36 percent rate cap, concluding that "Predatory lending undermines military readiness, harms the morale of troops and their families, and adds to the cost of fielding an all volunteer fighting force" (2006: 9). At the end of the day, the need for military readiness superseded that of widespread credit access, but it only affected a small subset of the U.S. consumer population.

The general trend, as the evidence clearly suggests, is that the political economy of credit has produced an imperative for policymakers to ensure that any consumer lending remedy they enact does not work at cross purposes from the need to promote widespread credit access. The result has been the consistent reliance on

information disclosure as the primary policy remedy for consumer credit protection.

Table 2.2: Partisan Support for Consumer Credit Policies, 1968-2010

Year	Policy	House				Senate			
		Yes		*No*		*Yes*		*No*	
		%R	%D	%R	%D	%R	%D	%R	%D
1968	Consumer Credit Protection Act	88	89	.05	1	100	88	0	12
1968	Truth in Lending Act	88	89	.05	1	100	88	0	12
1970	Fair Credit Reporting Act	76	66	0	0	-	-	-	-
1970	Provisions Relating to Credit Cards (Title V)	76	66	0	0	-	-	-	-
1974	Equal Credit Opportunity Act	51	78	34	13	90	86	0	0
1974	Fair Credit Billing Act	51	78	34	13	90	86	0	0
1976	Truth in Leasing Act	68	84	17	6	-	-	-	-
1977	Fair Debt Collection Practices Act	29	57	67	38	-	-	-	-
1978	Electronic Funds Transfers	75	81	11	6	-	-	-	-
1980	Truth in Lending Simplification and Reform Act	80	87	11	8	73	78	10	9
1988	Fair Credit and Charge Cards Disclosure Act	78	76	0	2	-	-	-	-
1988	Home Equity Loan Consumer Protection Act	-	-	-	-	-	-	-	-
1991	Truth in Savings Act	-	-	-	-	74	63	5	23
1996	Omnibus Consolidated Appropriations Act	81	44	14	46	94	47	6	51
1996	Consumer Credit Reporting Reform Act	81	44	14	46	94	47	6	51
1996	Credit Repair Organizations Act	81	44	14	46	94	47	6	51
2003	Fair and Accurate Credit Transactions Act	98	76	1	22	-	-	-	-
2006	Military Lending Act	97	86	1	11	-	-	-	-

This mission has largely spanned partisan differences. I recorded the voting records for each credit policy for both the House and Senate, including the partisan support for each. Interestingly, the degree of bipartisan support for many of these policies resulted in voice votes being taken on final passage of the legislation. Despite the fact that party polarization has increased dramatically since 1970 (McCarty, Poole, and Rosenthal 2008)—the same time period in which these laws were enacted—very few disclosure requirements have been subject to dramatic partisan divides.

As Table 2.2 illustrates, only two pieces of legislation, the Fair Debt Collection

Practices Act of 1977 and the 1996 omnibus appropriations bill (which included three separate credit acts), secured the support of less than half of each party in Congress. In the case of the latter, it is hard to know whether the credit acts or other provisions of the appropriations bill were responsible for the partisan gap in support. These trends suggest that the adoption of information disclosures in consumer finance, in addition to being a path-dependent outcome of previous policymaking decisions, may also be politically driven because disclosures can garner bipartisan support.

Credit Policy After the Financial Crisis

Between 1968, when the first consumer credit regulation was enacted, and 2006, when the last major credit regulation prior to the financial crisis became law, the trend was clear. Policymakers from both parties looked overwhelmingly to information disclosures to balance the mandate for broad credit access produced by the political-economic arrangement with the need for some form of consumer credit protection. But information disclosures were not sufficient to curb the spread of predatory lending or the associated growth in consumer debt described in the previous chapter. Nor, it turned out, were these disclosures sufficient to maintain national economic stability.

By 2008, Congress was confronted with the need to act to restore the stability of the financial system. They also had the opportunity to provide a greater degree of protection for borrowers. While much of the media, and indeed legislative, focus was directed toward resolving problems with subprime mortgage lending and the securities and derivatives markets, two major laws were enacted that dealt specifically with consumer credit. The Credit Card Accountability Responsibility and Disclosure

(CARD) Act was adopted in 2009, shepherded through Congress by Representative Carolyn Maloney (D-NY). Dubbed "low-hanging" fruit in one prominent analysis of the policy response to the crisis (McCarty et al. 2013: 207), the CARD Act codified a number of regulations that the Federal Reserve Board had already been in the process of implementing (Kirsch and Mayer 2013).

Despite the financial situation, the CARD Act did not stray very far from the existing approach to consumer credit protection. It introduced a number of new information disclosure requirements, perhaps most notably a requirement that credit card statements show borrowers how long it will take them to pay off their balance at the current interest rate (Title II). The law did, however, enact some protective measures. The Act placed a cap on the fees card companies could levy for late payments, and it also restricted the process of double-cycle billing[17] (Title I). The provision that most clearly violated the tendency toward extending credit access was contained in Title III. This title introduced restrictions designed to make it harder for young borrowers to get access to more credit than they were capable of paying off.

Interestingly, legislative support for the CARD Act more closely mirrored the bipartisan approval secured by previous disclosure laws than it reflected the bitter partisan divides that emerged for a number of other policy issues addressed during President Obama's administration. In the Senate, 88 percent of Republicans and 93 percent of Democrats voted in favor of the bill. In the House, 98 percent of Republicans voted to pass the CARD Act, while only 41 percent of Democrats did so. The curiously low support among House Democrats was in response to an amendment

added by Senate Republicans—led by Senator Tom Coburn (R-OK)—that allowed people to carry firearms in national parks (§512).

The second major consumer credit policy enacted in response to the financial crisis was the creation of the new Consumer Financial Protection Bureau (CFPB). The CFPB was established by Title X of the Wall Street Reform and Consumer Protection Act (Dodd-Frank). The creation of a federal regulatory agency designed specifically to protect consumer financial transactions was a revelation for its reshaping of the administrative environment, which will be explored in greater detail in Chapter Five. In other ways, however, the creation of the CFPB conformed to the existing pattern of consumer credit regulation via disclosure.

Nine separate congressional hearings were held to debate the controversial proposal between June 24 and September 30, 2009. There were several fronts over which supporters and opponents clashed. First, would the agency be independent or would it fall under the direct supervision of the Federal Reserve Board (FRB)? Second, exactly what would the CFPB have oversight for? Most existing types of financial institutions were already regulated by other federal agencies. Would they now come under the purview of the CFPB? What about lenders like auto dealers and payday and title loan stores that were typically subject to state regulation? Finally, would the CFPB be immediately empowered to enact new types of protective regulations, or would it be created to enforce and extend the existing infrastructure of information disclosure-based policies?

Consumer advocates, championed by Elizabeth Warren, proposed as part of

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[17] Double cycle billing is the process of calculating the interest charge in a given billing period by

Dodd-Frank that, in addition to the existing disclosure requirements, a series of "vanilla" loan products would be designed by the CFPB as default credit vehicles that lenders could offer (Kirsch and Mayer 2013). These default products would be marketed as standard loans, and any alterations to them would be clearly identified for consumers. The idea was that each consumer would be provided with several "safe" loan products with federally pre-approved terms and would have to actively select credit that came with alternative, and potentially riskier, terms. Such a provision would have been a significant departure from the existing approach to lending.

The end result was a compromise: the CFPB was to be an independent agency housed within the FRB. Its funding would come from the FRB and not from congressional appropriations, and it would be managed by an appointed director who ran the agency largely independent of FRB supervision. In return for this measure of autonomy, and much to the chagrin of many consumer advocates, Representative Barney Frank agreed to compromise during the committee markup on the other two issues. Auto dealers were exempted from CFPB oversight, and the vanilla loan products were dropped from the bill. The result was the creation of an agency explicitly designed to ensure consumer credit protection, but it was tasked primarily with upholding the existing disclosure-based policy regime. As Ellen Seidman, a veteran of several government financial regulatory agencies, lamented about the eventual compromise, "We have to stop relying on consumer disclosure as the primary method of protecting consumers" (Kirsch and Mayer 2013: 16).

It is hard to believe that even a major financial crisis, perpetuated at least in

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accounting for both the average daily balance of the current period and the previous period.

part by the consequences of predatory lending, could not provide a sufficient push to induce policymakers to pursue a new consumer credit policy strategy. Instead, policymakers introduced procedural changes to the administration of these policies while holding fast to the disclosure-based approach. Many of the explanations that emerged prior to the crash looked to the power of Wall Street or the cozy relationships between bankers and lawmakers to explain this result (e.g., Johnson and Kwak 2010; McCarty et al. 2013). While those factors undoubtedly played a role in maintaining the status quo, I argue that some of the blame must also be directed to the political economy of credit, and perhaps the New Deal policymakers who established it, for creating a specific set of institutional constraints that bound the hands of policymakers with respect to consumer credit. But if the financial crisis did not lead to a more significant reevaluation of the political economy of credit, and its attendant policy regime, what could?

The Political Consequences of Consumer Credit Policy

This chapter develops my contention that the United States has adopted a political economy of credit with significant consequences for the types of consumer credit laws that federal policymakers adopt. While policies designed to provide access to consumer credit may have had secondary benefits at various points in time, for example, facilitating home modernization or providing a form of politically-feasible welfare support to labor and, later, to low-income Americans, the main goal of establishing a viable market for consumer credit was and continues to be promoting purchasing power to drive the growth and preserve the stability of the national economy. As a result of this macroeconomic goal, policymakers have been

subsequently constrained in the types of policy remedies they could adopt to regulate consumer credit. In particular, they needed to inspire consumer confidence in the face of predatory lending practices without employing measures that would constrain access to credit and potentially weaken mass purchasing power. The result, as I have demonstrated, is that policymakers relied on information disclosure, vesting individual borrowers with the primary responsibility for protecting themselves by making smart decisions with respect to credit use.

This chapter has explored how the political economy of credit constrained the policy remedies federal lawmakers adopted over time. But the story does not end here. The remaining chapters explore how these consumer credit policies, through their design, implementation, and administration, have fundamentally shaped the politics of consumer credit in other ways. The next chapter details the specific design and implementation of consumer credit policies, examining how the tendency toward market-based policy design and implementation influenced how consumers think about, and subsequently act on, problems with consumer credit. Chapter Four explores the consequences of these feedback effects for advocacy groups' efforts to mobilize consumers toward political action. Finally, Chapter Five focuses on how the administrative arrangement that sprang out of the demands of the political economy of credit has created regulatory feedback effects that inhibit the success of public interest lobbying and citizen participation in the regulatory arena.

CHAPTER THREE

"Storming Mad" but Staying Home: Depoliticizing the American Borrower

Mark Gregg[18] had a liver transplant in 2001. He was unable to keep working after the surgery, so he lived on a monthly Social Security disability check of about $1,000. Mr. Gregg described his predicament to a New York Times reporter in 2003, explaining that he "was really sick, so there were things going on that [he] wasn't really diligent about." Keeping his bank balance in the black, for example, sometimes slipped through the cracks. For a while, however, Mr. Gregg was able to continue paying for his expenses even when his account dipped below zero because his bank, FirstMerit Bank in Akron, Ohio, was one of a large and growing number of depository institutions that offered their customers "overdraft protection."

Banks have long provided their best (i.e., wealthiest) customers with overdraft lines of credit. Like traditional loans, customers who are deemed worthy of an overdraft line of credit are notified by the bank and may choose to receive an overdraft loan. Customers are then able to overdraw their accounts by as much as several thousand dollars, repaying these overdraft loans at an annual interest rate that does not typically exceed twenty percent. Mr. Gregg, however, was not the type of customer to qualify for such an exclusive loan. Instead, he was the "beneficiary" of a far more common—and costly—form of overdraft protection that has increasingly become the

[18] Mr. Gregg's story appeared in a New York Times article on the rise of overdraft loans on Wednesday, January 22, 2003. The full story, including the following quotes, can be found in the New York Times article "Banks Encourage Overdrafts, Reaping Profit" (Berenson 2003).

norm at U.S. banks.[19]

These overdraft protection programs, which typically cover personal checks, ATM withdrawals, automatic payments, and debit or check card purchases, allow customers to overdraw their accounts for a flat fee of, on average, thirty-five dollars for each overdraft—a fee equivalent to an annual interest rate of 1,000 percent or more. Unlike the more exclusive overdraft lines of credit, the overdraft limit for these new protection programs is much smaller, capped at a few hundred dollars, and the balance must be repaid in a matter of days. Until 2009, when regulations were implemented requiring upfront disclosure and affirmative consent for overdraft protection,[20] the vast majority of bank customers were automatically enrolled in protection programs; many remained completely unaware of their participation until they received notice of the fee they were required to pay for overdrawing their account. Banks usually market overdraft protection as a courtesy service that "saves customers the embarrassment and cost of rejected payments" (CFPB 2013). In reality, however, overdraft fees are part of a growing number of charges that banks have implemented over the last decade to boost their own profits.[21]

Mr. Gregg accumulated more than $1,000 in overdraft fees following his

[19] A 2011 study conducted by the Federal Deposit Insurance Corporation (FDIC) found that 70% of large banks and more than half (54%) of midsize banks employed an automated overdraft system (CFPB 2013).

[20] In 2009, the Federal Reserve Board amended Regulation E (implementing the Electronic Funds Transfer Act) to eliminate automatic opt-in programs for overdraft protection. The new regulation requires consumers to affirm their participation in the program after they are provided with information on overdraft policies (74 Fed. Reg. 59033, Nov. 17, 2009). The rule went into effect in 2010. More stringent protections have not been successfully enacted.

[21] While a precise measure of bank profits derived from overdraft fees is difficult to obtain because they are often reported along with other account service charges, studies have estimated that consumer overdraft and non-sufficient funds charges combine to account for between $12.6 (in 2011) and $32 (in 2012) billion dollars (see CFPB 2013).

surgery. FirstMerit ultimately closed his account when he could not pay them off. His mother, who is also a FirstMerit customer and a cosigner on Mr. Gregg's account, had $400 withdrawn from her own account to cover the remaining unpaid fees without even receiving a warning from the bank. Despite being "storming mad" at the bank's behavior, which Mr. Gregg's mother thought "should be illegal," neither mother nor son took any action. Mr. Gregg told the reporter he felt that banks like FirstMerit "have got you against a wall, and you just throw up your hands."

Stories like Mr. Gregg's, of people who suffered from the adverse effects of predatory lending yet failed to take political action on behalf of their grievances, were all too common in the years surrounding the most recent financial crisis. In addition to those hardest hit by risky loans, the millions of Americans whose finances were potentially threatened by the same practices also largely failed to exercise their political voice to protect their economic futures. Observers have called this inability to translate public anxiety and anger over predatory financial practices into political demands for reform one of the most striking puzzles of the financial crisis (McCarty, Poole, and Rosenthal 2013; Mayer 2012; Kirsch and Mayer 2013).

The lack of consumer political engagement on credit issues, especially after the financial crisis, is perplexing for a number of reasons. First, consumer credit is fundamental to the economic security of the average American, and people—even those with fewer economic resources—have demonstrated their willingness to engage in political activity to protect and expand public policies that are central to their financial security (e.g., Campbell 2002, 2003). So why did Americans not follow this pattern to support the expansion of consumer financial protections? Second, financial

reform became a legislative priority of federal policymakers—and subsequently a frequent topic of media coverage—in the lead up to and aftermath of the financial crisis. Consumers were thus presented with an obvious opportunity to voice their concerns to lawmakers, yet chose not to take advantage of it.

Perhaps the most puzzling part of the story, however, is that political inaction on consumer credit is not indicative of a more general aversion to taking action over predatory financial practices. As will be discussed in both this chapter and the next, evidence shows that many individual borrowers who encounter problems with their own credit transactions do take action, but they do so primarily by appealing to market rather than political actors. Similarly, large groups of consumers did occasionally mobilize to protest predatory lending practices and demand reforms during the Great Recession; once again, however, protesters typically targeted big banks and financial trade associations instead of their elected representatives and federal financial regulators—even as consumer support for government regulation of the financial industry increased. Why have Americans been reluctant to act to secure greater consumer financial protection? When they have mobilized, why have borrowers largely eschewed political channels and targets in favor of action within the market itself?

In this chapter, I argue that general theories of political engagement provide insufficient, or incomplete, answers to this puzzle of political inaction. Instead, I offer an alternative explanation: consumers' strategies for engagement on lending issues have been shaped by their experiences with the policies at the heart of the political economy of credit. As the previous chapter details, the U.S. political economy of

credit depends upon wide access to consumer credit to support a consumption-driven economy. In order to sustain this macroeconomic model, policymakers have relied on information disclosures as the primary form of consumer protection. I contend that the specific decisions policymakers have made with respect to the design and implementation of these consumer credit regulations have shaped people's preferences for action, or, in this case, for political inaction.

Drawing on the Consumer Credit Policy Dataset (CCPD) introduced in the previous chapter, I explain how consumer credit policies have created the potential to both privatize and personalize the practice of consumer lending in the United States. Policies privatize consumer credit in two ways. First, policies established a system wherein credit is provided to borrowers by government-backed market institutions, rather than directly from government agencies. This obscures the fact that government was not only responsible for helping to create modern consumer credit, but also that it continues to play a key role promoting and regulating credit. The reliance on information disclosures as the primary policy remedy for the regulation of lending further privatizes the use of consumer credit. These regulations are implemented by lenders through lengthy credit contracts given to consumers in the course of normal credit transactions, thus masking government's role in the creation and enforcement of the regulation.

Finally, information disclosures personalize consumer credit in two ways. First, they assume a model of the consumer as an atomistic, rational market actor, treating the procurement and usage of credit as a personal financial decision in which the onus is placed on the consumer to make appropriately informed—i.e.,

responsible—decisions. Second, these policies rarely offer protections based on membership in a particular constituency, instead basing those protections on participation in individual credit transactions. As a result, most credit policies do not create a distinctive constituency group that is able to mobilize itself easily for political action.

I propose that the combination of privatizing and personalizing consumer credit encourages people to place more blame for credit problems on market actors—both borrowers and lenders—than on political actors, even as people voice support for generic government regulation of the financial sector. As a result, these policies discourage consumers from engaging in both individual and collective political action for grievances with consumer credit. The following chapter develops this theory in greater detail. It draws on public opinion data on consumer credit and regulation, compiled from a variety of sources, and original data from an online survey of a national adult sample to explore how these preferences might shape citizen action on credit issues.

This chapter ultimately demonstrates that the overwhelming majority of consumer credit policies are designed and implemented in ways that implicitly discourage consumers from turning to political action to pursue their grievances. These trends illuminate an interesting finding regarding consumer credit policies in the United States. Consumer lending, particularly as a form of welfare, bears all of the hallmarks of what Suzanne Mettler (2011) has dubbed a submerged policy. That is to say, despite government's role in generating and supporting consumer credit as a form of economic assistance, the provision of credit occurs almost entirely within the scope

of the market. The chapter concludes by discussing the potential consequences of this institutionalized deterrent from pursuing government oversight of the consumer finance industry: the removal of borrowers' most viable pathway to financial protection.

Are Consumers Angry?

There are many reasons why individuals might not take part in political activism on behalf of financial issues, even in the aftermath of a major financial crisis. The most obvious answer is that, despite general outrage[22] at Wall Street, most consumers may be satisfied with consumer credit products and see no need for reform. But several indicators of consumer sentiment suggest this is not the case. Problems with financial products and services make up a significant proportion of the complaints that have been collected by Consumer Sentinel[23] in recent years. In 2013, for example, debt collection was second only to identity theft in eliciting complaints, comprising ten percent of all reports. Banks and lenders garnered another seven percent of all consumer complaints. Similarly, complaints about credit cards are one of the top ten complaint categories in almost three quarters of the states (thirty-six of fifty).

More evidence of growing consumer dissatisfaction with credit is reflected in

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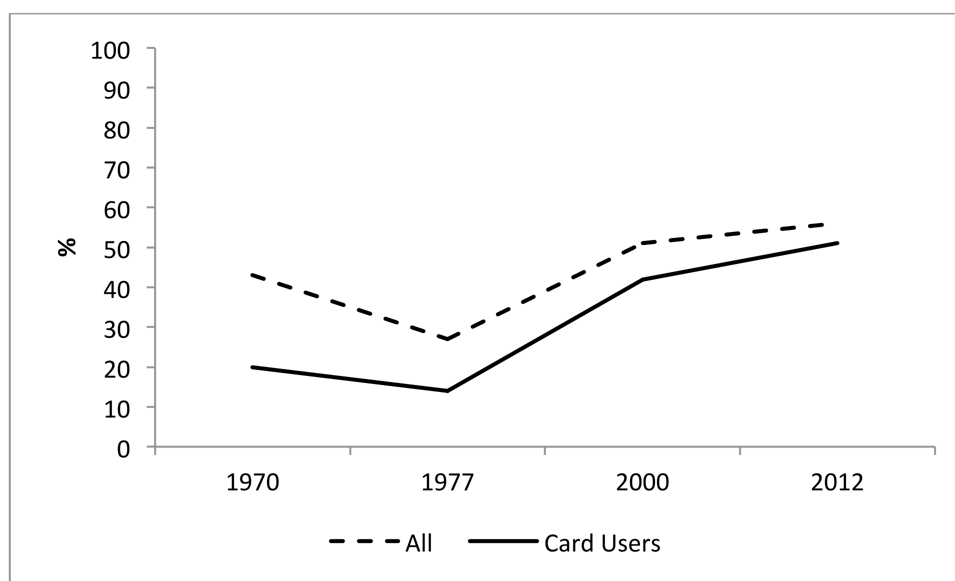
[22] Beyond anger at Wall Street, more general consumer rage has actually been on the rise for quite some time. A 2004 study conducted by the Center for Services Leadership at Arizona State University found that general consumer rage was at an all-time high. In fact, respondents reported experiencing consumer rage at a rate eleven percent higher than did respondents from a similar study conducted in 1976—around the peak of consumer political mobilization in the U.S. Similarly, a 2013 TIME Magazine article dubbed the preceding year "The Year in Consumer Outrage" for the bevy of boycotts engaged in by angry consumers (Tuttle 2013).

[23] The Consumer Sentinel Network is a federally managed database for law enforcement professionals that aggregates consumer complaints gathered from a nationwide network of around fifty data providers.

responses to the Federal Reserve Board's Survey of Consumer Finances, conducted triennially since the 1970s with a representative national sample of U.S. households. As Figure 3.1 illustrates, the percent of respondents who strongly agree that credit cards are bad has grown dramatically since the 1970s, especially among card users. While only one in five card users felt that way in 1970, half of all card users in 2012 strongly agreed that credit cards were bad—a thirty percentage-point increase.[24]

Figure 3.1: People Who Strongly Agree that Credit Cards are "Bad," 1970-2012



Note: This data is from four discrete surveys conducted in 1970, 1977, 2000, and 2012 respectively. The data does not reflect a continuous timescale. Source: Survey of Consumer Finances, 1970-2012

Figure 3.2 provides more information about people's specific problems with credit cards over the last decade and a half. More than 90 percent of respondents in both 2000 and 2012 strongly agree that credit card interest rates are unreasonable. Relatedly, nearly eighty percent of respondents strongly agree that the common

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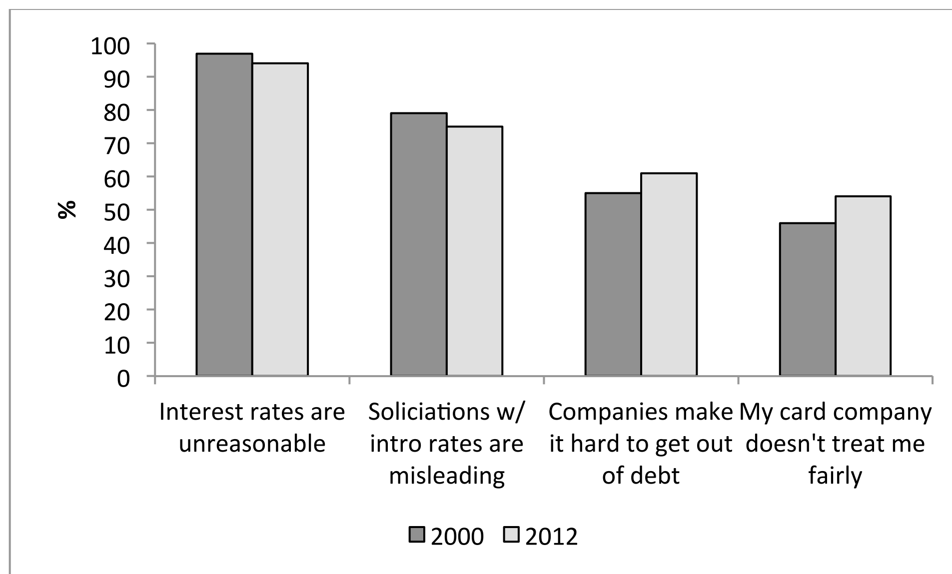
[24] Data from this survey on credit card attitudes is not available for the years immediately preceding and following the financial crisis (2007-2010). If these attitudes mimic opinion trends captured by polling on related topics administered between 2007 and 2010, it is possible that consumer dissatisfaction was even higher during that time period than is reflected in the responses from 2012 presented here.

practice of sending out card solicitations with introductory interest rates that later change is misleading. A majority of respondents (55 and 61 percent respectively) also strongly agree that credit card companies make it difficult for people to get out of debt. Finally, just under half of all respondents (46 percent) in 2000 strongly agreed that they their credit card company failed to treat them fairly, and that number increased eight percentage points by 2012, leaving a significant portion of Americans feeling less than completely satisfied with their credit card companies.

Figure 3.2: Percent who Strongly Agree with Credit Card Evaluations, 2000-2012



Source: Survey of Consumer Finances, 2000 & 2012

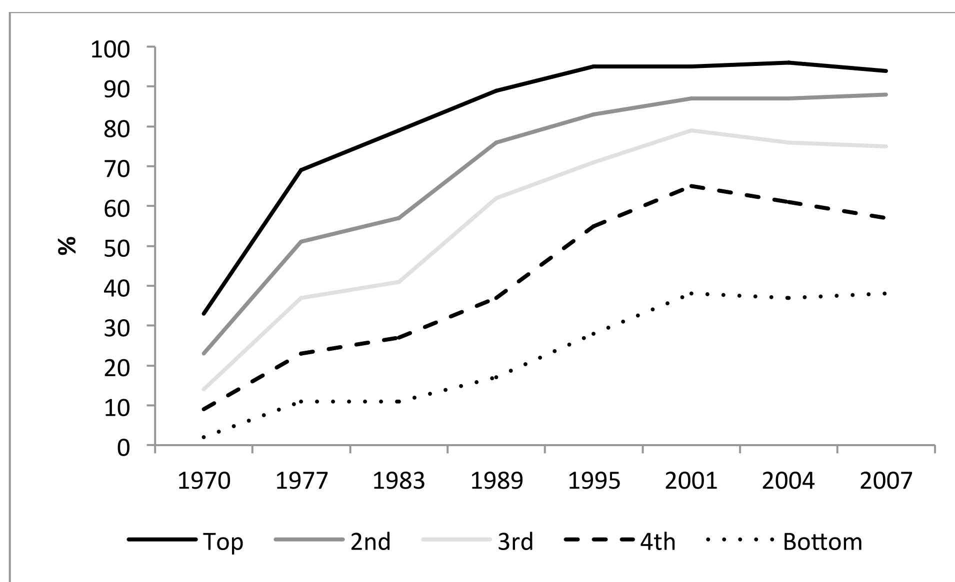
When considered together, these indicators provide compelling evidence that a substantial number of Americans are dissatisfied with the state of consumer lending—feelings that were likely exacerbated by the financial crisis.

Explaining Consumer Inaction

If consumers do indeed have grievances with the financial products and services they use, then perhaps their lack of political consumer activism stems from

other factors. One common refrain suggests that consumers who suffer financially as a result of predatory lending and increased consumer debt must be lower income and, therefore, may not have the resources that have proven to be an integral part of political engagement.[25] This argument, however, is based on a fundamentally flawed picture of who exactly relies most heavily on credit and who is subjected to potentially predatory lending terms. While low-income Americans are certainly vulnerable to the harms of predatory lending, they neither make up the largest cohort of people who rely on credit nor are they the exclusive (or even primary) targets of risky loan practices that can ruin financial fortunes.

Figure 3.3: Americans with Credit Cards by Income Quintile, 1970-2007



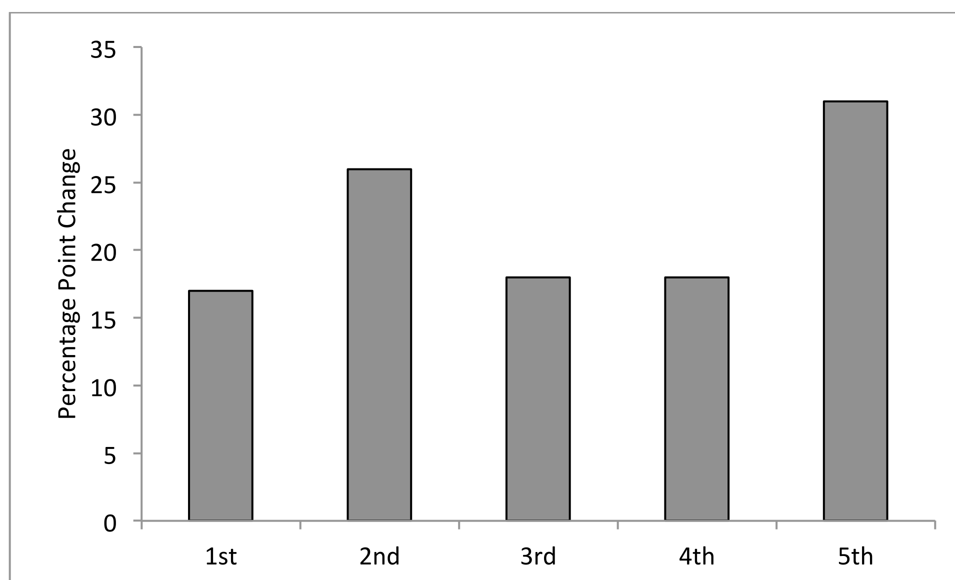
Source: Survey of Consumer Finances, 1970-2012

Many of the poorest Americans do not actually have access to mainstream sources of credit or traditional bank accounts (Bolton and Rosenthal 2005; Trumbull

[25] Scholars have continually shown that socioeconomic resources, including education, age, and income, are a key characteristic for an active citizen (see, for example, Wolfinger and Rosenstone 1980; Brady et al. 1995).

2014). As Figure 3.3 shows, fewer than two in five (38 percent) people in the lowest income quintile had credit cards in 2007, the year before the crisis. By contrast, at least half of the people in every other income quintile used at least one card, with the percent of users increasing along with income. The growth in usage since credit cards became more widely available in the 1970s has similarly been skewed toward more affluent Americans. The lowest income quintile is the only group for whom the growth in card usage increased fewer than forty percentage points. By contrast, those in the middle-income quintiles experienced the greatest growth in usage during the last four decades.

Figure 3.4: Change in Borrowers with Credit Card Balance by Income Quintile, 1970-2007



Source: Survey of Consumer Finances, 1970-2012

It is true, as Figure 3.4 demonstrates, that the percentage of borrowers who carry a monthly balance on their credit card has grown the most for those in the lowest income quintile (31 percentage points between 1970 and 2007). But the practice has increased considerably for every income group over that time period, and those in

higher income groups are actually carrying greater outstanding monthly balances (Durkin et al. 2014). This data suggests that middle- and upper- income Americans should be at least as likely, if not more so, to have a vested interest in the potential damages inflicted by risky lending practices—especially because predatory practices are not reserved for the least affluent borrowers.

In 2007, 41 percent of all non-mortgage consumer loans were subprime, meaning they were lent to borrowers with credit scores below 640 on a scale from one to 850 (Zibel and Andriotis 2015). Not only is this a higher rate of subprime lending than in the mortgage sector (20 percent in 2007), but it is also too many subprime loans to be concentrated among low-income Americans. Income and credit score are correlated to a degree, with the highest income Americans more likely to have higher credit scores and vice versa. However, the number of low-income borrowers is sufficiently small that in 2007 high-income people actually outnumbered low-income people in every single credit score decile, even doubling the number of low-income Americans in the lowest decile of credit scores (Board of Governors 2007).[26] It is, in fact, middle-income borrowers who are the most evenly distributed across all credit score deciles and represent the largest portion of each. This distribution means that a substantial portion of those subprime loans was actually held by middle- and even high-income borrowers. Furthermore, a 2007 report by the *Wall Street Journal* found that even borrowers with higher credit scores were frequently subjected to, or intentionally selected, loans with subprime terms (Brooks and Simon 2007).

The idea that predatory lending is a problem for a wide swath of Americans is

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[26] The Federal Reserve Board uses the income of the census tract as a proxy for borrower income.

reflected in this data. While low-income Americans may be least able to weather the financial burdens imposed by predatory loans, the general stagnation in wages (Gould 2015) and relatively low rate of personal savings (United States Bureau of Economic Analysis 2016) makes risky debt dangerous for even more affluent borrowers. The reality of who suffers from risky lending practices helps to explain why Elizabeth Warren emphasized the relevance of consumer financial protection and reform for middle-class families in the lead up to and aftermath of the financial crisis (Kirsch and Mayer 2013). It also suggests that resource deficiencies cannot entirely account for people's lack of political action on credit issues.

If the actual financial toll taken by predatory lending is not to blame for political inaction, perhaps the psychological toll is. Robert Putnam, in a speech coincidentally given in 2007 on a topic unrelated to the looming financial crisis, posited that perhaps financial stress itself—like that generated by mounting consumer debt or harassing debt collection practices—may be sufficient to limit civic participation (Putnam 2007). Recent work provides evidence to corroborate this theory. In a series of experiments designed to test how people respond to political appeals, Adam Seth Levine (2015) discovered that reminding people of their own economic insecurity makes them less likely to invest time or money into related civic and political activity.

The problem in applying Levine's explanation, and indeed each of the preceding explanations, to the current puzzle is that they would predict an absence of all forms of mobilization—whether targeted toward market or political actors—by affected consumers. As will be discussed in greater detail later in this chapter and the

next, this simply does not reflect the reality of citizen engagement on consumer credit. While political activity has been virtually non-existent, consumers have engaged in market action both to deal with their own credit grievances and, occasionally, to make broader demands of market actors for increased consumer protection. So what explains the unwillingness of consumers to engage specifically in political action on credit issues?

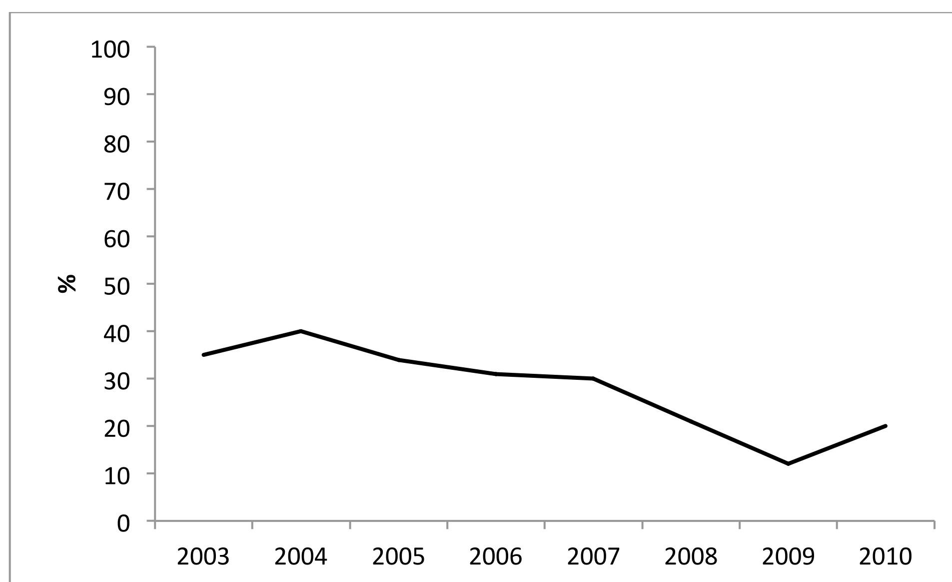
Does Government have a Trust Problem?

One of the most commonly cited explanations for limited consumer political activity from those among the advocacy community is that consumers have such a low opinion of government that it is no wonder they do not go directly to policymakers to fix their problems (Kirsch and Mayer 2013). It is, of course, true that the federal government—and especially Congress—has not been well positioned to win any popularity contests of late. Congressional approval ratings hovered in the teens and twenties for most of the period surrounding the financial crisis (Gallup 2016). But there are a number of reasons to question the idea that the dearth of political consumer action on credit issues is the result of general distrust in government.

First, the lack of political engagement on credit issues is not confined to the current period in which low government approval is pervasive. As will be demonstrated both later in this chapter and particularly in the next, this is a trend that dates back well into the 1960s, spanning times of both high and low trust in government. Second, the government's recent struggle with low approval ratings has not quashed political engagement for all issues. Nor, even, has it entirely done so for other financial issues generated in the wake of the crisis. In 2009, for example, when it

was discovered that bonuses were paid to executives of AIG using federal bailout funds, the public outcry aimed directly at political leaders was so great that it led to swift congressional hearings and a vote to tax those bonuses at 90 percent (McCarty, Poole, and Rosenthal 2013).

Figure 3.5: Percent Who Agree Banks are "Honest and Trustworthy," 2003-2010



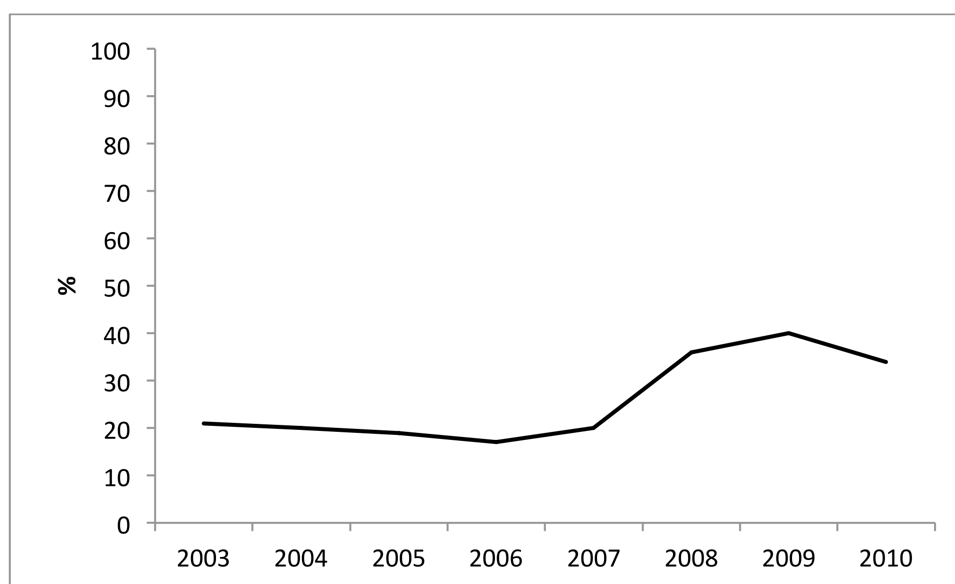
Source: Harris Interactive Poll, 2003-2010

Another indication that low trust in government is not solely responsible for pushing consumers to pursue their grievances with market actors is that the banking and finance industry is not performing any better in the eyes of the public.[27] As Figure 3.5 illustrates, the banking industry experienced a precipitous drop in public trust in the years prior to and immediately following the financial crisis. According to a series of public opinion polls conducted by Harris Interactive between 2003 and 2010, the percent of respondents who agreed that banks were "honest and trustworthy" dropped by about ten points—from 40 percent to 30 percent—between 2004 and 2007.

[27] The data presented in Figures 3.5-3.7 are from a series of annual Harris Polls conducted each year between 2003 and 2010 using a representative sample of adults in the U.S. (Harris Interactive 2012).

Between 2007 and 2009, during the onset of the crisis and the following recession, trust in banks plunged a further 18 percentage points to only 12 percent. This drop was equally, if not more, precipitous than the decline in public approval of Congress for the same period, and it put public trust in financial institutions on par with or lower than trust in federal policymakers. Yet consumers still turned to market actions to solve problems with credit.

Figure 3.6: Percent Who Support More Government Regulation by Industry, 2003-2010

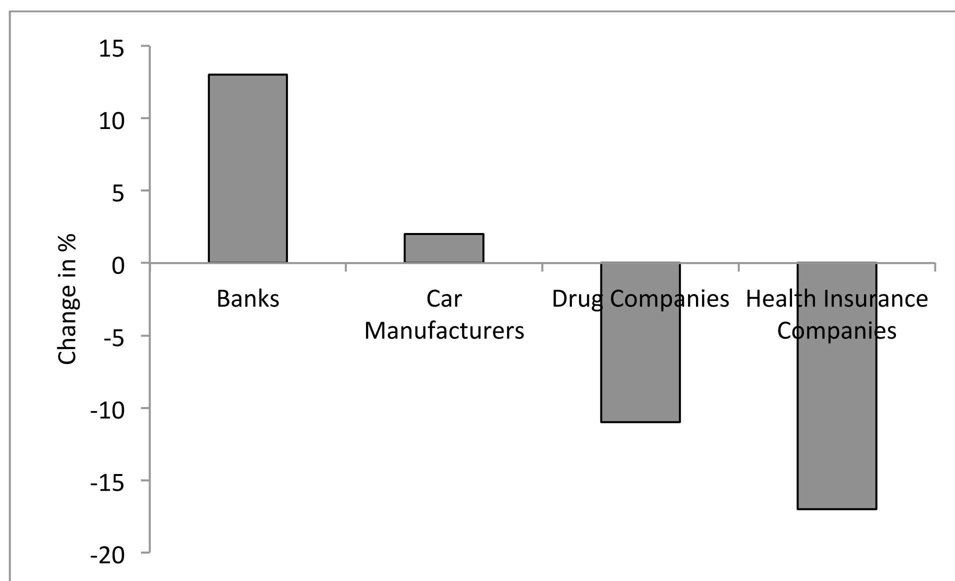


Source: Harris Interactive Poll, 2003-2010

Finally, if people are convinced that government cannot be trusted to do what is right, we might expect that attitude to manifest in relative antipathy toward greater government regulation. Once again, however, this is not borne out in public opinion expressed during the crisis. As Figure 3.6 shows, respondents to the annual Harris Polls conducted between 2003 and 2010 reported a substantial increase in their support for generic government regulation of the banking industry during the financial crisis. In fact, the percent of respondents voicing support for greater government

regulation of banks actually doubled from 20 percent to 40 percent between 2007 and 2009.

Figure 3.7: Change in Support for More Government Regulation by Industry, 2003-2010



Source: Harris Interactive Poll, 2003-2010

The growth in public support for government regulation of the financial industry is particularly noteworthy when compared to other industries that made headlines between 2003 and 2010. As Figure 3.7 illustrates, the auto industry, having undergone a similar collapse during the financial crisis, experienced only a modest bump in the number of respondents supporting its further regulation. People's support for increased regulation of drug and health insurance companies, by contrast, actually dropped between 2003 and 2010.

These patterns are especially interesting because they reflect a decline in support for government regulation of health care and related industries just as President Obama and Democrats in Congress were working to enact health care reform. Support for regulation of health insurance companies decreased about ten

percentage points—from 52 percent of respondents (a slim majority) to only 42 percent—between 2007 and 2010. If Americans felt satisfied with their own financial products and services, as is frequently demonstrated by public opinion about health care, we might have observed a similar public reaction to the banking industry as Congress considered financial reform. Of course, the banking industry contributed significantly to the financial crisis while the healthcare industry was less obviously culpable, so support for greater regulation is no doubt driven in part by this fact. But if people completely distrusted government's ability to improve financial conditions, they still should not have been as anxious for greater government regulation of the banking industry. Instead, public trust in banks declined while support for general financial regulation increased. Despite these trends, consumers either stayed home or turned to market, and not political, actors to protest predatory consumer credit. Why?

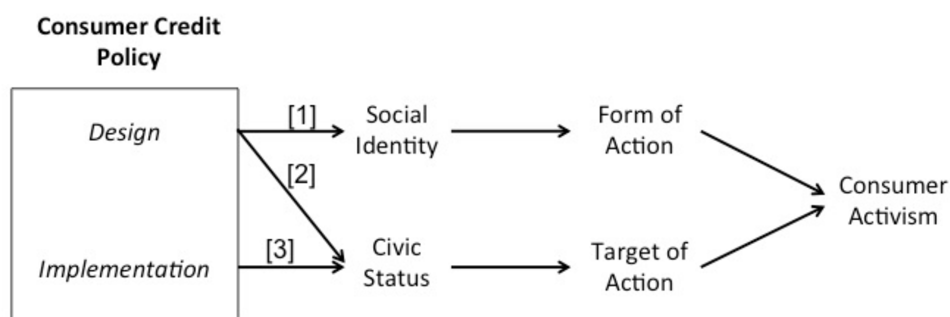
How Credit Policies Shape Credit Politics

I offer an alternative, policy-driven explanation for the lack of political action in response to predatory lending. People's strategies for engagement on credit issues have been shaped by their experiences with the policies at the heart of the political economy of credit. By concerning themselves primarily with consumer credit as a way to bolster the national economy, policymakers have made specific, often path dependent, decisions with respect to policy design and implementation of consumer credit regulations. I argue that these features generated regulatory feedback effects that have significantly influenced the behaviors of citizens when it comes to mobilizing for greater consumer protection.

Figure 3.8 illustrates the specific pathways identified in Chapter One along

which I argue regulatory feedback effects shape the social identity and civic status of consumers. Variables that align with these pathways are coded for each policy included in the Consumer Credit Policy Dataset.

Figure 3.8: Regulatory Feedback Effects of Consumer Credit Policies for Individuals



With respect to social identity, I contend that consumer credit policies that provide benefits in a transactional manner personalize the procurement and usage of credit while suppressing any sense of collective consumer identity, while more traditionally targeted policies might activate collective consumer identities. As Chapter One explained, the creation of a discrete target population often enables consumer mobilization around that identity. When a policy treats beneficiaries as individuals, however, they may not be empowered to mobilize collectively.

The degree to which a policy constructs an individual or a collective social identity through policy design [1] is captured by a single dummy variable. A policy that identifies a specific target population (e.g., elderly credit users) is coded as one. If the policy is broadly applicable to any individual who engages in a particular credit transaction, it is coded as zero. For example, the previous chapter discussed two examples of policies that I coded as targeting a specific population: the CARD Act, which contains a section with specific regulations for young borrowers, and the

Military Lending Act, which applies protections only to service members and their families. By contrast, the original Truth in Lending Act applied to all credit card users, an identity based on an individual transaction rather than an identifiable or shared set of group characteristics.

I identify two pathways along which policies can shape borrowers' civic status—the degree to which they view consumer credit as within the purview of the state. First, the remedy specified by a particular policy design can shape civic status [2]. If a policy provides remedies geared toward maintaining fair market competition rather than intervening in the function of supply and demand through a more protective measure, consumers may learn that, as long as transactions are "fair," consumers are accountable for their own financial affairs as responsible players in an increasingly complex market of financial products.

As discussed in the previous chapter, I employ two dummy variables to capture this aspect of policy design. The remedies for each policy are coded to distinguish between those designed to ensure fair market competition versus those that dictate specific terms and protective limits on the financial product or service. As previously discussed, information disclosures are the most prominent form of remedy used to bolster fair market competition across all types of consumer products (Beales et al. 1981; Hadfield et al. 1998), so a dummy variable is included to measure whether the policy establishes new information disclosures. A second dummy variable is constructed to measure whether a policy provides any protective remedy, for example, by outlawing certain types of practices or placing limits on the amount of interest charged for a transaction. These two types of remedies are included as separate

dummy variables because policies may contain multiple remedies.

Table 3.1: Consumer Credit Policy Attributes, 1934-2010

Year	Policy	Social Identity		Civic Status	
		Transaction	*Group*	*Market*	*Government*
1934	National Housing Act (Title I)	x		x	
1968	Consumer Credit Protection Act	x		x	
1968	Truth in Lending Act	x		x	
1970	Fair Credit Reporting Act	x		x	
1970	Provisions Relating to Credit Cards	x		x	
1974	Equal Credit Opportunity Act		women	x	
1974	Fair Credit Billing Act	x		x	
1976	Truth in Leasing Act	x		x	
1977	Fair Debt Collection Practices Act	x		x	
1978	Electronic Funds Transfers	x		x	
1980	Truth in Lending Simplification and Reform Act	x		x	
1988	Fair Credit and Charge Cards Disclosure Act	x		x	
1988	Home Equity Loan Consumer Protection Act	x		x	x
1991	Truth in Savings Act	x		x	
1996	Omnibus Consolidated Appropriations Act	x		x	
1996	Consumer Credit Reporting Reform Act	x		x	
1996	Credit Repair Organizations Act	x		x	x
2003	Fair and Accurate Credit Transactions Act	x		x	x
2006	Military Lending Act		military	x	
2009	Credit CARD Act	x	young	x	
2010	Consumer Financial Protection Act of 2010	x			x
2010	Improving Access to Financial Institutions Act		low-income	x	
	Total	86%	18%	95%	18%

The degree to which government's role in the regulation of consumer credit is evident in the implementation of a policy can also shape a consumer's civic status [3]. A dummy variable is included for each policy, therefore, to identify whether the remedy is implemented in a way that highlights government at all—a conservative

measure. Policies that are implemented entirely through the existing market transaction are coded as zero. By contrast, if government is evident in the implementation of a particular policy remedy, this variable is coded as one. For example, a policy that requires the disclosure of certain information on a credit card application might be implemented in one of two ways. The information might simply be included on the application a consumer receives directly from the credit card company, showing no indication that government policy mandated the provision of information. Alternately, a policy might require that each credit card application must also include a specific pamphlet produced by a government agency that lists the terms which creditors are required by federal law to disclose and provides contact information for a federal agency that consumers can contact if the credit card company has not provided information on the required terms. Table 3.1 presents the results of each of these policy attributes for all policies in the dataset.

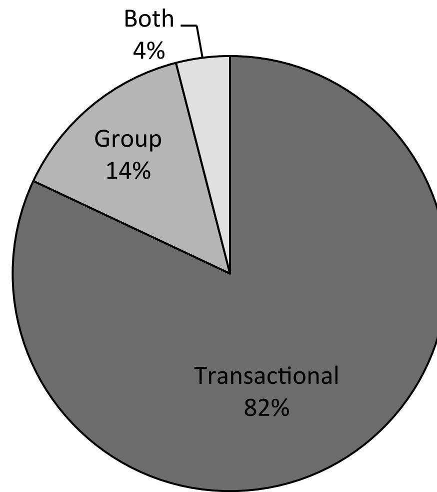
Personalizing and Privatizing Consumer Credit

Do consumer credit policies adopt design and implementation strategies with the potential to personalize and privatize the use of credit as I hypothesize? The evidence suggests that they do.

Social Identity

Figure 3.9 reports the degree to which consumer credit policies identify specific target populations versus providing benefits based on individual transactions. The overwhelming majority of consumer credit policies enacted since 1934 provide benefits in the latter manner.

Figure 3.9: Target Population for Credit Policies, 1934-2010



More than four of every five credit policies (82 percent) provide remedies to all borrowers of a particular type of credit, that is to say, based on an individual transaction. Only four major consumer credit policies apply to a specific target group. Of those four, two are designed to extend access to credit to those who were absent from the ranks of borrowers at the time of passage: the Equal Credit Opportunity Act of 1974 and the Improving Access to Mainstream Financial Institutions Act of 2010. The ECOA, as discussed in Chapter Two, helped expand access to women and minority borrowers by preventing credit discrimination. The Improving Access Act, which was not passed until after the most recent financial crisis, includes Treasury Department funds to support grant designed to stimulate credit access to unbanked low-income consumers.

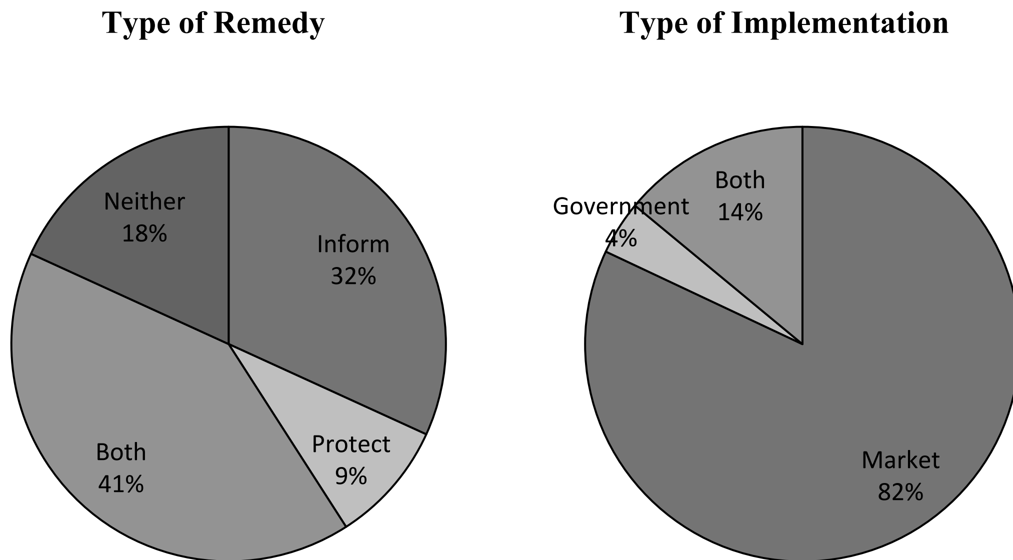
Only two policies since 1934 have geared credit protections to a specific group. The most significant of these was the MLA passed in 2006. This act, part of a larger defense appropriations bill for the 2007 fiscal year, authorized the Department

of Defense to cap the interest rate on certain types of loans made to military members and their families. The other policy providing some protective measures to a distinct group of potential borrowers is codified in Title III of the CARD Act of 2010. Passed after the financial crisis, this title sets forth rules for borrowers under twenty-one years old that make it more difficult for them to access, and potentially abuse, credit cards. Despite these two exceptions, the overwhelming trend is that consumer credit policies are targeted toward individual transactions, potentially personalizing the use of consumer credit.

Civic Status

To what extent do these policies treat credit as a political rather than a market issue, thus influencing the civic status of borrowers?

Figure 3.10: Privatizing Dimensions of Consumer Credit, 1934-2010



As Figure 3.10 shows, approximately one in three consumer credit policies (32 percent) employs only a remedy based on the disclosure of information to consumers.

In total, almost three in four policies (73 percent) rely on information disclosure as at least one type of remedy. By contrast, only one of every ten credit policies (9 percent) rely exclusively on a protective remedy, with only half of all credit policies including any protective remedies at all. And as Chapter Two detailed, many of these protective measures are ancillary to the overall disclosure mission of the law, for example, prohibiting credit reporting agencies from including certain information in their credit reports. This evidence clearly suggests that the majority of consumer credit policies are designed with a preference for market remedies.

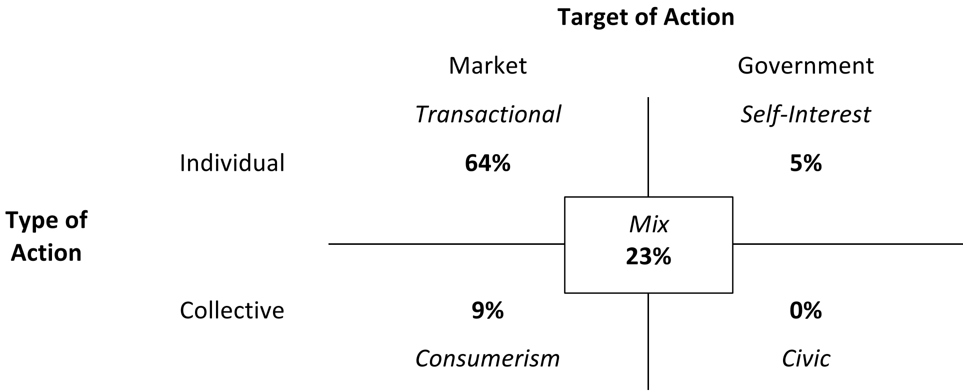
Perhaps even more important than the type of remedy adopted by these policies, however, is the way in which the remedy is implemented. Only four policies (18 percent) provide consumers with an obvious indication that government is involved in the regulation of credit. Of those, just two—the Home Equity Loan Consumer Protection Act of 1988 and the Credit Repair Organizations Act of 1996—mandate that lenders provide consumers with specific information[28] about their rights that includes contact information for federal government agencies. In each case, the allusion to government is still minimal. A third, the Fair and Accurate Credit Transactions Act, mandates a similarly minor indication of government involvement in credit. It requires the creation of a government-run website (MyMoney.gov) to distribute information on financial literacy, which only illuminates the role of government in consumer credit for people who choose to visit the site. Only one of the consumer credit policies enacted since 1934 provides a truly visible indication to

[28] Samples for each form of disclosure can be found at http://files.consumerfinance.gov/f/201204_CFPB_HELOC-brochure.pdf and http://www.creditcpr.com/documentation/Your%20Rights.pdf respectively.

consumers that government is involved with the regulation of their credit affairs: the Consumer Financial Protection Act of 2010, which established the Consumer Financial Protection Bureau.

The result of these two dimensions of consumer credit policy is that, while a small number of policies may provide limited remedies that extend beyond disclosure requirements designed to promote fair market competition, the tendency to bury these protective remedies within ordinary market transactions may well render them powerless to convince citizens that government is responsible for protecting borrowers' interests. Instead, the clear majority of policies obfuscates the role of government in consumer credit regulation, thus privatizing the use of credit for most consumers and diminishing the civic status of borrowers.

Figure 3.11: Predicted Mobilization Strategies by Consumer Credit Policy Features



I argue, as depicted in Figure 3.8, that the way in which these policies shape social identity informs citizen preferences for taking either individual or collective action for consumer credit grievances. Similarly, the way that policies may shape the civic status of borrowers informs consumer preferences for the target of any action

they take surrounding credit grievances. It is, however, the combination of these personalizing and privatizing elements of consumer credit policy design and implementation, illustrated in Figure 3.11, that I believe shape consumer preferences for dealing with credit-related grievances.

Figure 3.11 illustrates how the various combinations of credit policy features described above are predicted to map onto potential strategies for consumer mobilization. About two of every three consumer credit policies (64 percent) combine elements that I anticipate will generate personalized norms about credit usage with the privatization of policy remedies and implementation. I expect policies such as these to lead consumers to pursue grievances within the bounds of normal market behavior, for example, by calling their lender to complain about a specific issue or by moving their business to a different lender when they feel they are being treated unfairly. A further nine percent of policies combine privatized policy designs with a group identity, potentially leading to collective mobilization within the market, or what I call consumerism. By contrast, only one policy—the Consumer Financial Protection Act of 2010, which created the CFPB—relies primarily on non-market design and implementation measures, potentially generating traditional self-interested forms of political engagement. About one in five policies (23 percent) include a mix of provisions, typically a combination of both information and minor safety disclosures. Only one mixed policy, the Military Lending Act of 2006, combines a prominent safety remedy with a collective target population. As a result, military predatory lending remains the one credit issue that is more likely to generate collective political mobilization.

Survey of Consumer Credit

I argue that together the personalizing and privatizing elements of consumer credit policies are likely to teach American borrowers to blame market actors—both themselves and their lenders—for problems with consumer credit. I expect that this will encourage consumers who decide to take action to target market, and not political, actors. Because no existing source of data contains the information necessary to explore patterns of consumer blame for credit issues, consumer action on those issues, and the potential relationship between them, I conducted an original online[29] survey of 525 American adults representing all fifty states and the District of Columbia, hereafter referred to as the 2015 Survey of Consumer Credit.[30] The survey included questions about individuals' experiences with and opinions about consumer credit. It also requested information about how borrowers respond, or might respond, to credit grievances as well as how they participate in other forms of political activity. Whenever possible, questions were designed to mirror the wording of similar items on existing surveys, some of which are also discussed in the following analysis.

Consumer Blame for Credit Problems

Who do consumers blame for problems with financial products and services? I argue that most people, having very little evidence of government's role in protecting consumers' credit transactions, instead focus their ire on market actors—both

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[29] The survey was conducted online to reduce social desirability bias and to mitigate the effects of asking potentially sensitive questions about the people's personal finances and their use of consumer credit (Kreuter et al. 2008).

[30] The survey was administered using Amazon's Mechanical Turk (MTurk) platform on August 11, 2015. Survey respondents were paid fifty cents for completing the survey. While MTurk users differ from a nationally representative sample in a few important ways—they are on average more Democratic and less likely to be people of color—MTurk is far more representative than most convenience samples (Berinsky et al. 2012). The descriptive statistics for the sample from this survey compared to the 2012 ANES sample are available in the Appendix.

borrowers and lenders. Evidence from the 2012 American National Election Study (ANES), conducted shortly after the Great Recession, provides some support for this proposition.

Figure 3.12: Blame for the Financial Crisis, 2012

Source: 2012 American National Election Study data

Figure 3.12 presents analysis of responses from the 2012 ANES to a series of questions asking people to identify the degree to which each of these actors should be blamed for the economic crisis.[31] The scores presented above reflect the mean blame for each actor, where one equals no blame and five equals a great deal of blame. Lenders and Wall Street received the greatest amount of blame from respondents at

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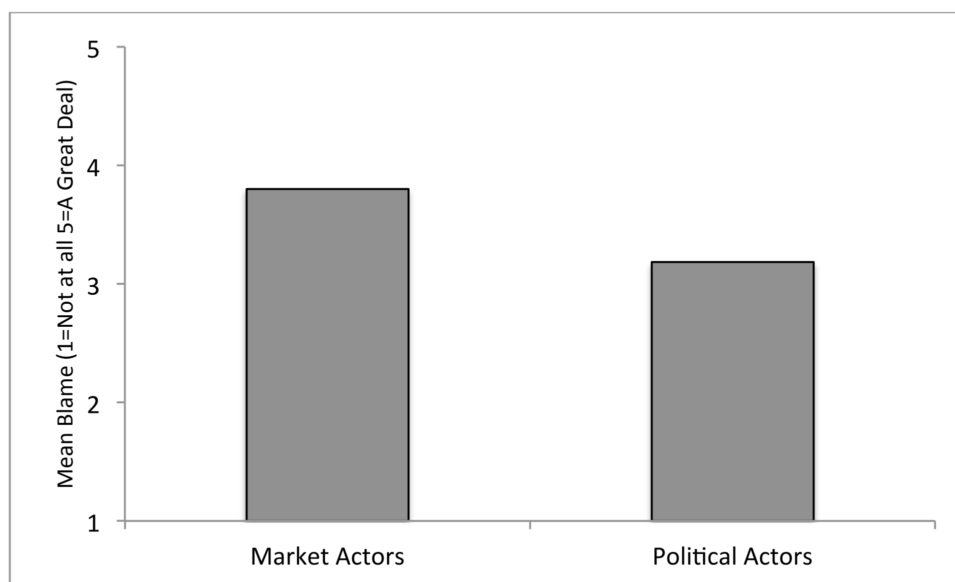
[31] These questions do not explicitly separate blame for consumer credit products from blame for other potential financial grievances; however, this measure represents the best data available to capture public sentiment on who is responsible for consumer credit grievances in a way that allows for the separation of multiple market and political actors. It also represents the most highly salient topic related to predatory lending from the last decade.

3.85 and 3.79 respectively. Members of Congress received the least blame from respondents, with congressional Republicans scoring 3.40 and congressional Democrats scoring 3.07—both of which are lower than the mean blame assigned to consumers (3.46). Of particular interest is the gap that exists between the average blame for all market versus all political actors. On average, respondents blame market actors (including lenders, Wall Street, and consumers) about half a point more for the financial crisis than they blame political actors (including President Bush, congressional Democrats, and congressional Republicans). These responses provide some support for the notion that today's consumers are focused on the market and not the government as the responsible party for credit grievances.

Figure 3.13: Blame for Financial Crisis, 2015

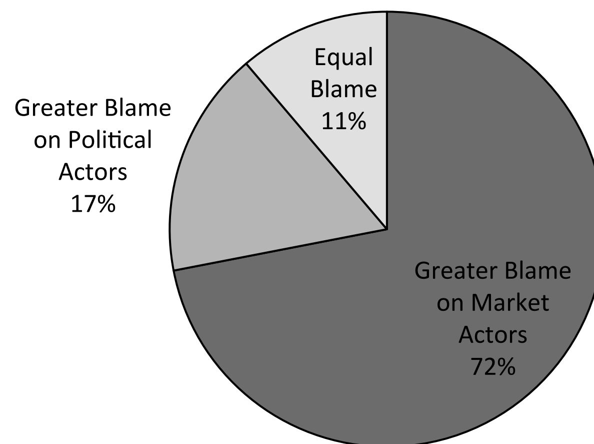


Source: 2015 Survey of Consumer Credit

The same questions were asked of respondents to the 2015 Survey of Consumer Credit, and the response patterns were nearly identical despite measuring consumer attitudes three years after the ANES and fully five years after the official

end of the Great Recession.[32] As Figure 3.13 shows, respondents once again placed greater blame for the financial crisis on market actors than on political actors. On average, respondents blame market actors almost two-thirds of a point more (.61) for the financial crisis than they blame political actors.

Figure 3.14: Actors Deserving Most Blame for Financial Crisis, 2015



Source: 2015 Survey of Consumer Credit

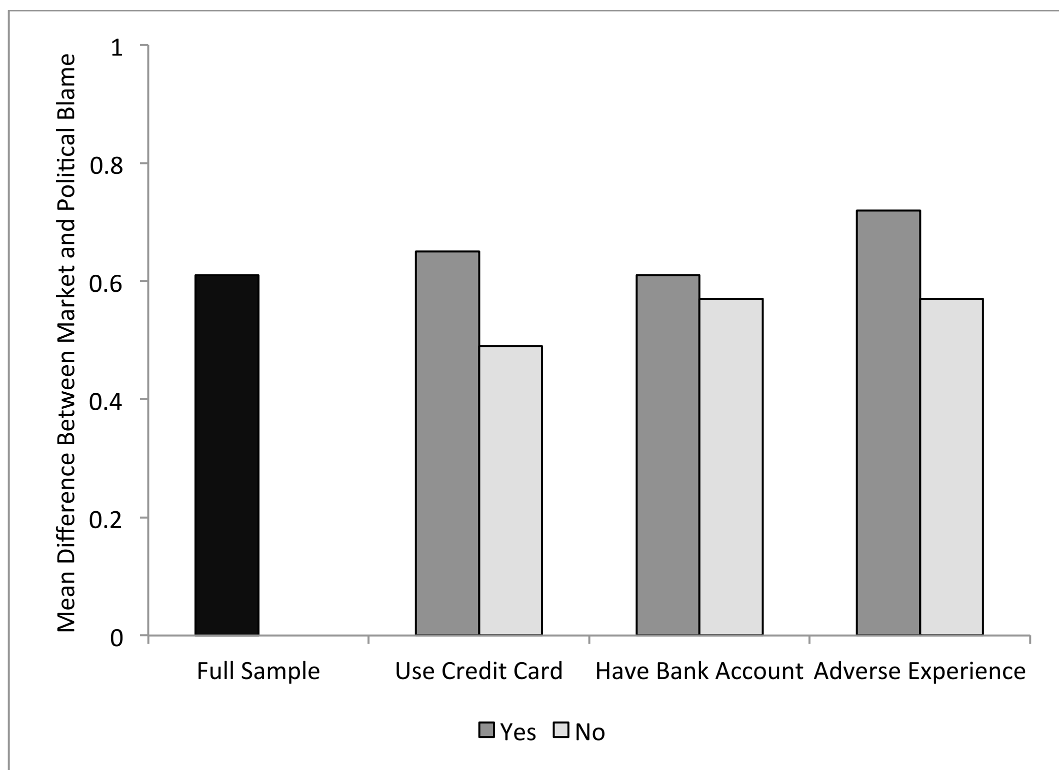
Nor is this blame gap being driven by a small group of respondents who are unusually likely to point the finger at market actors. As Figure 3.14 shows, almost three in four respondents (72 percent) placed more blame for the crisis on market actors than on political actors.[33] Fewer than one in five respondents (17 percent) were likely to hold political actors more culpable, and about one in ten respondents (11 percent) placed equal blame on both sets of actors. These responses suggest a consistent trend in the assignation of blame for the financial crisis—the most salient

[32] The questions and answer choices replicated those of the 2012 ANES. The aggregate measures for "market actors" and "consumer actors" are likewise calculated in the same way.
[33] This measure was created by subtracting the mean blame for political actors from the mean blame for market actors for each respondent.

recent issue directly related to predatory lending—to market actors over their political counterparts.

But does this result hold for those who actually use credit products versus those who do not? Figure 3.15 illustrates the extent to which people assign greater blame to market actors than political actors by their experiences as borrowers.

Figure 3.15: Mean Blame Gap Between Market and Political Actors by Credit Usage, 2015



Note: The differences in mean blame for card users and those experiencing unfair treatment are statistically significant at the p<.1 level. Source: 2015 Survey of Consumer Credit

Respondents who use credit cards placed increasing blame on market actors relative to political actors when compared with non-card users. A similar pattern emerged for those who had adverse experiences with credit products.[34] Card users and

[34] Adverse credit experiences, as typically measured by the Federal Reserve Board and replicated in the 2015 Survey of Consumer Credit employed in this analysis, include denial of credit, denial of the full

borrowers with adverse credit experiences reported an even greater likelihood of blaming market actors over political actors than did the mean survey respondent. Very little difference in the pattern of blame emerged between bank account holders and unbanked respondents, but this is probably an artifact of the tiny number of respondents—seven in total—who lacked a bank account.

Taken together, these results indicate that Americans—including those who use and suffer adverse effects from some financial products and services—place more blame for the recent financial crisis on market actors than they assign to political actors. The pattern of blame is consistent with the idea that people's experiences with credit policies encourage them to view credit transactions, and the consequences of consumer lending, as influenced primarily by market rather than political forces. Blaming market actors, however, is only one piece of the puzzle.

Consumer Action

Whom do borrowers turn to when they experience problems with consumer credit? I argue that, once again, with little evidence of government intervention in the regulation of credit, consumers are more likely to turn to market actors to pursue their grievances. Because consumer credit regulations have consistently employed privatizing remedies and implementation strategies since their inception in 1968, I anticipate that consumers' incentives to target market actors will be as strong today as they were in the early years of government policymaking on consumer lending, even though federal credit regulation has grown considerably in the intervening decades.

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amount of credit requested, charged high rates or fees for credit, received other poor credit terms, provided insufficient information about credit terms, billing errors, other mistakes with credit accounts, problems with debt collection or harassment, property repossession to clear debt, or respondent-identified problems not included in the above list.

Table 3.2 offers evidence that is consistent with this contention. The table presents responses to an identical set of questions about how consumers address credit problems administered in two different surveys nearly forty years apart. The 1977 Survey of Consumer Finances included a battery of questions designed to test the efficacy of the first consumer credit regulations one decade after their implementation. Borrowers were asked to detail any credit problems they encountered and what, if any, actions they took for each. I replicated these questions in the 2015 Survey of Consumer Credit to see how today's consumers respond to problems with credit. The responses allow us address two important queries: First, do consumers primarily turn to market or political actors when faced with specific credit problems? Second, has the growth of government policymaking on credit between 1977 and 2015 increased people's willingness to acknowledge government as an appropriate target for action when grievances with financial products and services arise?

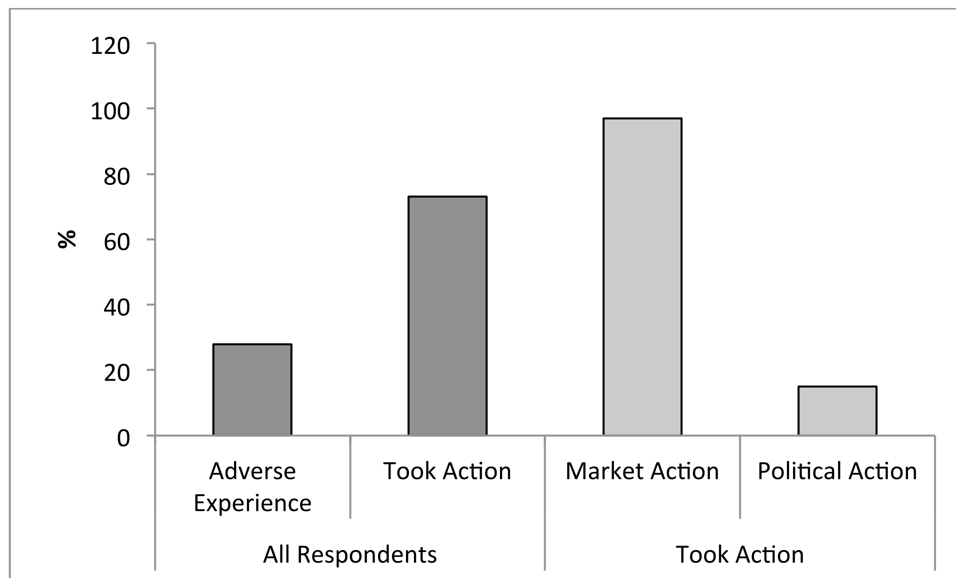
Table 3.2: Consumer Action on Credit Card Grievances, 1977 and 2015

	1977 Survey of Consumer Finance	**2015 Survey of Consumer Credit**
Experienced Credit Problem	24%	28%
Took Action	62%	73%
Took Market Action		
Contact Creditor	62%	87%
New Source of Credit	5%	42%
Contact Trade Association	3%	18%
Took Political Action		
Legal	8%	9%
State or Local Agency	2%	6%
Federal Agency	1%	5%
State or Local Elected Official	n/a	3%
Federal Elected Official	1%	4%

As the results in Table 3.2 illustrate, a significant majority of people who have

adverse credit experiences do take action.[35] About two in three consumers (62 percent) in 1977 and three in four consumers (73 percent) in 2015 did something in response to the problems they encountered with credit. This provides some confirmation that people are not simply failing to act at all when faced with the consequences of predatory lending. It also suggests that borrowers today are not suffering from a greater level of apathy on this issue than were their counterparts in the late seventies. These responses further demonstrate that consumers in both periods were far more likely to engage with market actors to address their grievances than to contact political actors. Not a single type of political action reached even ten percent for borrowers in either survey.

Figure 3.16: Consumer Action on Credit Card Grievances, 2015



Source: 2015 Survey of Consumer Credit

Figure 3.16 provides more detail on the patterns of action for 2015 respondents. Of those who reported taking action in response to an adverse credit

[35] Respondents in both surveys were allowed to select multiple actions, so they could affirm all types of action taken in response to an adverse credit experience.

experience, nearly all (97 percent) took a form of market action. Only 15 percent reported taking any political action. What is particularly interesting is that everyone who reported taking a political action also took a market action.[36] Not a single respondent relied exclusively on political action. This pattern fits with the predictions generated from the analysis of U.S. consumer credit policies described earlier in the chapter in Figure 3.11: most people exclusively target market actors with grievances, while a small number of consumers target a mix of market and political actors.

One interesting change does occur between 1977 and 2015. Respondents in 2015 reported engaging in a broader array of market actions than did respondents in 1977. While consumers in both periods were highly likely to address adverse credit problems directly with lenders, four in ten borrowers (42 percent) who experienced problems reported actively seeking new sources of credit in 2015 compared with only five percent of borrowers in 1977. This could reflect the fact that more sources of credit are available today, or it could indicate that credit has become sufficiently important to people's economic livelihoods that a source must be found. Complaining to a creditor or seeking a better lending situation both seem like reasonable methods for resolving specific problems with a financial product or service, and there may not be a form of political engagement—outside of legal action—that would produce an analogous result. Perhaps, then, these consumers' actions are focused on market actors simply because respondents are trying to achieve resolution to a specific credit problem rather than seeking to change the larger pattern of lending behavior.

But the increased propensity to contact a trade association about a grievance—

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[36] Three percent of respondents reported taking an action but did not specify which actions they took.

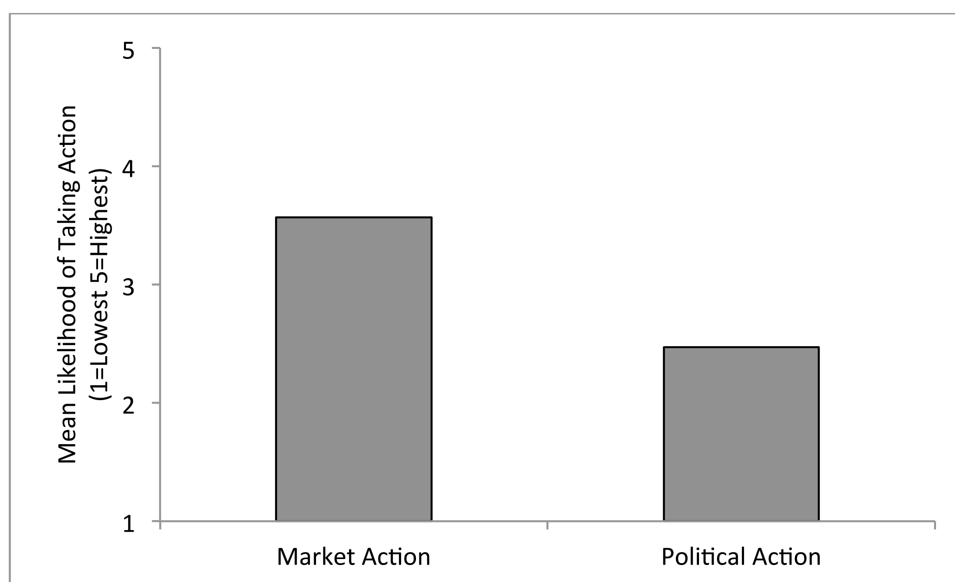
from only three percent of respondents in 1977 to 18 percent, or nearly one in five respondents, in 2015—cannot be explained by the same logic. Filing a complaint with a trade association is much more akin to lodging a complaint with an elected official or a regulatory agency. While it might result in third party intervention that helps solve a specific credit problem—something that complaining to an elected official or regulatory authority can also accomplish, complaining to an external authority is more likely to draw the attention of that authority—one possessing oversight or policymaking power—to a broader problematic practice. Once again, the growing penchant for contacting a trade association rather than a comparable political actor is consistent with the prediction that consumers, whether seeking a specific solution to an adverse credit experience or voicing general concern about a lending practice, are more likely to target market actors.

Perhaps these responses reflect something unique about people who are reacting to a specific adverse credit experience. To what extent do these patterns carry over to the broader universe of borrowers? In order to gauge people's more general preferences for taking market versus political action on credit issues, the 2015 Survey of Consumer Credit included a series of questions about how likely a person was to take each specific action included in Table 3.2 in response to any potential future issues with consumer credit. Their answers were then aggregated to create a mean likelihood score for engaging in market action and one for political action, where one equals very unlikely and five equals very likely.[37]

[37] The individual items included in the market and political action variables are divided as in Table 3.2 except that legal action was not included in either measure because it may not be associated with an explicitly political (or market) actor.

Figure 3.17 reports the mean likelihood for taking both future market and political action. Once again, respondents expressed a greater willingness to turn to market actors should they wish to pursue an issue with consumer credit in the future. Indeed, three marks the mid-point where respondents were "neither likely nor unlikely" to take a specific action, so respondents expressed, on average, a willingness to take market action while remaining unwilling to take political action.[38] This provides further confirmation of the idea that borrowers are more likely to turn to market actors when they are unhappy with consumer credit.

Figure 3.17: Future Consumer Action on Credit Grievances, 2015



Source: 2015 Survey of Consumer Credit

These survey trends are consistent with the real-world actions taken by disgruntled consumers during the financial crisis. While politicians and public interest groups were lamenting the lack of consumer political mobilization to support passage

[38] People are often guilty of over reporting their willingness to take a particular type of action, but there is no theoretical reason to expect that respondents in this survey should be more likely to over report preferences for one type of action over another.

of financial reform in 2010 (see Kirsch and Mayer 2013), the same consumers who ignored Congress occasionally took to the market to express their displeasure with credit practices. Thousands of consumers signed an online petition and threatened a boycott to oppose new debit card fees levied by Bank of America (Mayer 2012). Similarly, around 650,000 people opened accounts at credit unions as part of a widespread social media campaign encouraging people to transfer away from big banks (Rapport 2011).

Does Market Blame Generate Market Action?

The previous two sections provide evidence that, having been exposed to several decades of privatizing consumer credit regulation, most Americans have learned to place greater blame for consumer financial problems on market actors and are more likely to target market actors when seeking redress for those problems. But does market blame actually beget market action, as suggested by the theory of regulatory feedback effects outlined in this project? The following section employs statistical analysis of data from the 2015 Survey of Consumer Credit to explore how blame for both market and political actors shapes a person's willingness to engage in different types of action for credit problems.

I begin by examining how blame for both market actors and political actors correlate with a person's willingness to take market action. If blame for the market is driving, in part, the decision to engage in market action, then we should expect to find an increase in the likelihood of pursuing market action as a person places increasing blame for consumer financial problems on market actors. For the purpose of this analysis, a respondent's likelihood of taking future market action serves as the primary

outcome of interest. The degree to which a respondent blames market actors for the financial crisis serves as the measure of market blame. Of course, if market blame is the specific driver of market action, then we should not expect blame for political actors to make a person more likely to engage in market action. To account for this, the degree to which a respondent blames political actors for the financial crisis is also included in the analysis. Finally, several measures are included to control for the individual characteristics of the respondent, including household income, education, age, gender, race, and partisan identification.[39]

Figure 3.18 illustrates the predicted effect of market blame on future market action when controlling for political blame and individual characteristics. As a respondent places more blame on market actors for the financial crisis, they are predicted to be increasingly willing to engage in market action on behalf of credit grievances. For the median respondent, placing a great deal of blame on market actors versus not placing much blame on them at all is predicted to increase the willingness of taking future action about half a point on a five point scale. By contrast, the degree to which that respondent blames political actors for the financial crisis is not predicted to have any significant effect on their willingness to engage in future market action. These results are consistent with the theory that market blame drives, to a degree, market action.

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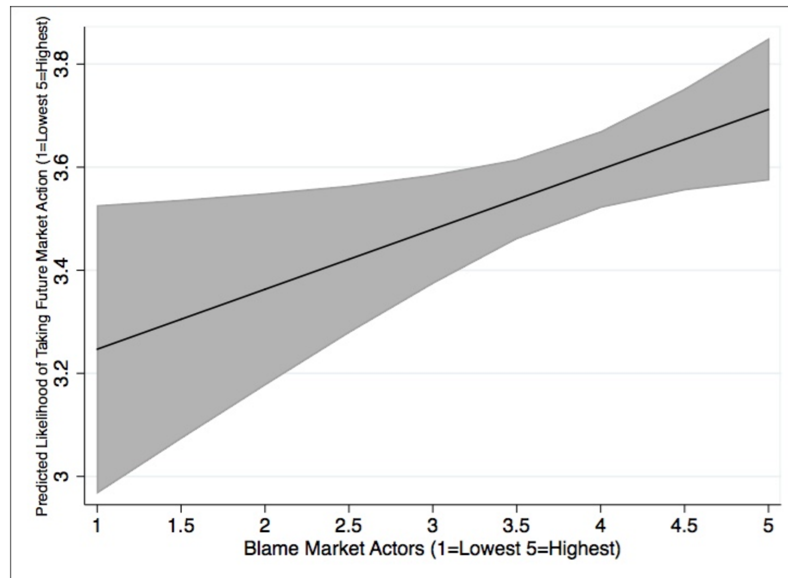
[39] Household income is measured on a seven-point scale where each one-point increase corresponds to an increase of $25,000 in annual household income. A person's highest level of education is measured on an eight-point scale from some high school to graduate degree. Age is a continuous variable. Gender and race are both dummy variables where one equals female and non-white respectively. Party identification is measured on a seven-point scale from strong Democrat to strong Republican. Descriptive statistics for these measures are included in the Appendix. All variables are centered on the median response category for the following analysis. The distribution of the primary dependent and independent variables is provided in the Appendix.

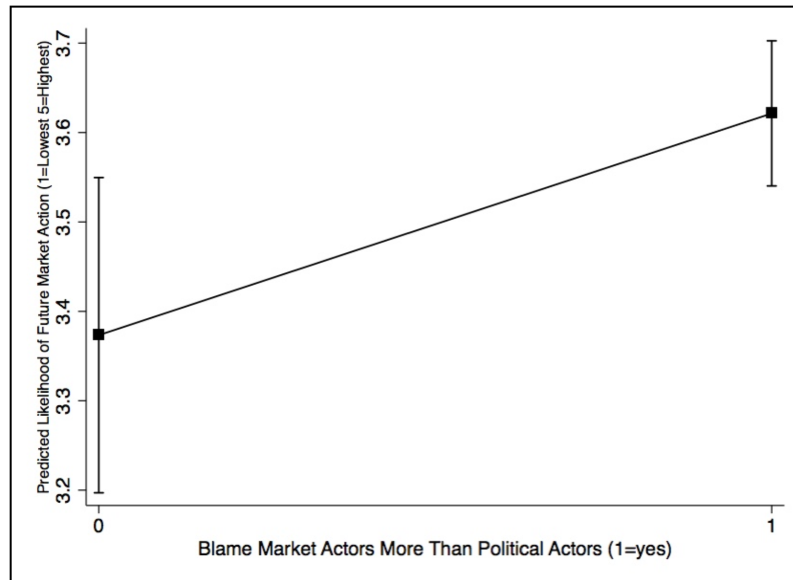
Figure 3.18: Effect of Market Blame on Future Market Action



Notes: Results are from OLS regression where n=485. The effect of market blame on future market action is significant at the p<.05 level.
Source: 2015 Survey of Consumer Credit

Another way of looking at the effect of market blame on market action is to ask whether those people who place greater blame for the financial crisis on market actors than on political actors exhibit a greater willingness to engage in market action than people who place more blame on political actors. Figure 3.19 shows how placing greater blame on market actors correlates with a respondent's willingness to engage in future market action on credit issues, once again controlling for the same individual characteristics of respondents included in the previous results. As expected, the average respondent who places greater blame on market actors for the crisis is predicted to report a greater willingness to take future market action than a respondent who is more inclined to blame political actors for the crisis. The cumulative effect of this result is potentially quite substantive, given that about three in four respondents place more blame for the crisis on market actors than on political actors.

Figure 3.19: Effect of Market Blame on Future Market Action



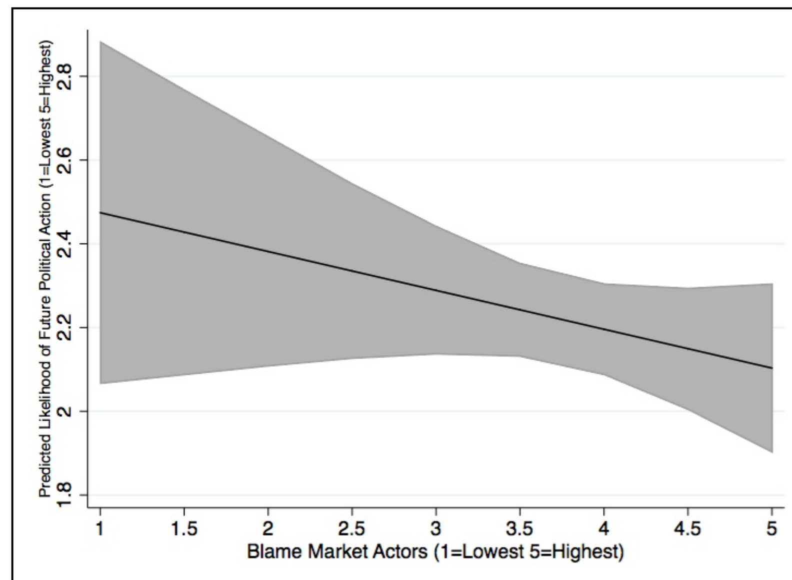
Notes: Results are from OLS regression where n=438. The effect of placing greater blame on market rather than political actors is significant at the $p<.05$ level. Source: 2015 Survey of Consumer Credit

Both of these results support the idea that when borrowers place greater blame for problems with consumer credit on market actors, then they are more likely to target those same actors if they decide to take action about credit grievances. But perhaps blaming market actors for credit problems simply makes people more likely to take any form of action—market or political—on this issue. In order to find out if this is the case, I explore how the same measures of blame for market and political actors correlate with an increased willingness to contact a federal elected official—a form of political action—should credit problems arise in the future, once again controlling for the characteristics of individual respondents.

As Figure 3.20 illustrates, the degree to which a respondent blames market actors for the crisis does not appear to affect their willingness to engage in political action. If anything, these results provide suggestive evidence that increasing blame on

market actors may actually diminish a person's willingness to contact a federal elected official about credit issues.

Figure 3.20: Effect of Market Blame on Future Political Action



Notes: Results are from OLS regression where n=487. The effect of market blame on future political action is not significant. Source: 2015 Survey of Consumer Credit

Table 3.3 provides the full results for each of the three models discussed above. There are two additional results worth noting. First, partisan identification is not predicted to shape how willing a person is to engage in political or market action in the future. Given the Republican Party's antipathy toward government, we might expect that Republican respondents exhibit a greater tendency toward market action while respondents who identify more with the Democratic Party are more likely to engage in political action. But these results find no evidence of such a trend. The second interesting finding is that individual characteristics like education and income are not predicted to affect future action. The only trait that produces an effect is race. The average non-white respondent was significantly more likely to engage in political

action.

Table 3.3: Predicted Effect of Blame for Financial Crisis on Consumer Action

	(1) Future Market Action	(2) Future Market Action	(3) Future Political Action
Blame Market	0.116 *	--	-0.093
	(0.049)		(0.072)
Blame Government	0.021	--	0.038
	(0.054)		(0.080)
Blame Market More (1=yes)	--	0.248 *	--
		(0.099)	
Party ID	-0.001	-0.004	0.019
	(0.019)	(0.836)	(0.028)
Income	0.044	0.032	-0.020
	(0.028)	(0.275)	(0.041)
Education	-0.027	-0.039	-0.032
	(0.025)	(0.026)	(0.037)
Race (1=non-white)	0.059	0.001	0.377 *
	(0.096)	(0.996)	(0.141)
Gender (1=female)	0.066	0.051	-0.167
	(0.074)	(0.509)	(0.108)
Age	0.012 *	0.016 *	0.003
	(0.003)	(0.003)	(0.005)
Constant	2.556 *	2.750 *	2.308 *
	(0.200)	(0.150)	(0.293)
N	485	438	487
R^2	.07	.08	.02

Notes: Figures in columns 1-3 are OLS regression coefficients. Coefficient standard errors are in parentheses.
*p<.05

Taken together, each piece of evidence presented in this chapter helps to paint an increasingly clear picture of how borrowers think about consumer credit problems and how that thinking influences their decisions to act. Americans consistently place more blame on market actors for problems with consumer financial products and services than they do on political actors. And not only are consumers more likely to blame market actors for credit grievances, but it also appears that market blame drives them toward market action when they chose to do something in response to those

grievances.

That this occurs despite the fact that lawmakers have played a significant, and growing, role in the creation and regulation of the consumer credit industry since its inception provides powerful evidence that government's role has been effectively hidden from the millions of American borrowers. I argue that such a feat would not have been possible if consumer credit policies did not actively personalize and privatize the procurement and use of credit.

Consumer Credit Regulation and the Submerged State

The consumer credit policy regime analyzed in this chapter bears all of the hallmarks of the submerged state—a network of policies that provides benefits to citizens from within existing U.S. market institutions (Mettler 2011). Suzanne Mettler identifies three salient features of submerged policies that I argue match the design, implementation, and administration of consumer credit regulations in the United States. First, submerged policies tend to provide benefits to individuals through market transactions, personalizing their use. Second, by providing benefits to individuals through market transactions they intentionally obscure government's role, ultimately encouraging beneficiaries to see only the free market and private enterprise at work. Finally, submerged policies tend to be upwardly redistributive, providing greater benefits to more affluent citizens.

The previous discussion emphasizes the ways in which consumer credit policies conform to the first two elements of the submerged state. Policymakers have clearly adopted regulations that personalize the use of credit, and they are implemented almost entirely within existing market transactions. But consumer credit

policies also mimic the upward redistribution of other submerged policies. Given the fixed administrative costs associated with loans combined with lenders' incentives to control for the riskiness of borrowers, consumer credit has always been regressive (Manning 2000; Trumbull 2014). Wealthier borrowers are given more favorable and less costly loan terms than are their less affluent peers—as Mr. Gregg's story ably demonstrated.

These features of the submerged state have been shown for other policies to correlate with two distinctive political outcomes that are also present with consumer credit. First, the privatized nature of submerged policies not only makes it difficult for citizens to form and express preferences about them, but it also fosters a sense that the market, not government, is responsible for the relevant issue (Mettler 2011). Relatedly, the governmental authority for submerged policies is often only identifiable to elite interests with the political knowledge and connections to interpret them. The result is that regular individuals are left unaware of their existence, thus removing any incentive to pursue government redress.

The Problem of Political (In)Action

Does it really matter if government policies incentivize consumers to blame, and subsequently to target, market actors for the problems they experience with consumer credit? In the last two decades a growing cohort of scholars—primarily historians and sociologists—has developed a narrative of consumption as an explicit form of politics in America.[40] Countering the existing wisdom that consumption and politics existed in entirely separate realms and with opposite motivations, recent work

[40] See, for example, Cohen 2003, Breen 2004, Jacobs 2005, and Hilton 2009.

argues that citizens throughout the nation's history have leveraged their consumptive power to bring about political change.[41] From boycotting British goods prior to the Revolution to the "Don't Buy where you Can't Work" campaigns of the 1930s and 1960s, these scholars emphasize that the explicitly political goals of certain market-based consumer behavior ought to be considered as another form of political activism—a thesis that has gained traction with the growth of "socially conscious" consumption in the last decade.[42]

In their insistence that citizens can leverage their consumptive roles toward political ends, scholars have treated market-based forms of consumer action as simply another expression of political participation. But they have failed to account for the ways in which market-based consumer politics may be fundamentally different from expressing consumer concerns through more traditionally political channels. It is important, however, to differentiate market from political consumer mobilization for two primary reasons. Market actors and government actors are confronted with very different pressures and incentives, and they possess different tools—both in form and scope—with which to address consumer complaints. As a result of these differences, the likelihood that consumer mobilization will be successful in pursuing a remedy for grievances, the form that such a remedy will take, and the scope of that remedy, will be shaped in large part by the target of the collective action—irrespective of whether consumers' underlying motivations are purely economic or in part political.

For millions of American borrowers who are potentially at risk from predatory

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[41] A prime example of the growing discourse surrounding the politics of consumption is presented in the special edition of The Annals of the American Academy of Political and Social Science: *The Politics of Consumption/The Consumption of Politics*, May 2007.
[42] See, for example, Micheletti 2003, and Stolle, Hooghe, and Micheletti 2006.

lending practices, eschewing political action as a way to improve consumer credit protection has serious consequences. It is possible that targeting market actors might be an effective way to resolve a specific problem with a consumer loan, although even that result is not guaranteed. But relying solely on market action is unlikely to bring about the more fundamental change to consumer finance necessary to prevent the systematic damages wrought by uncurbed predatory lending. Indeed, as a leading consumer advocate bluntly but accurately remarked when I mentioned examples of consumers making demands of market actors, “And what did that accomplish?” (0312151 March 2015).

As we will see in the next chapter, the consequences of privatizing and personalizing consumer credit extend beyond their effects on individual consumers’ predilections for market over consumer activism. They also present a serious obstacle for public interest groups seeking to mobilize consumers toward political action, thereby limiting the ability of these groups to wage a successful outside lobbying strategy in pursuit of reform. Without the political muscle provided by constituent support, federal lawmakers—even those who support more stringent consumer credit protection measures—are limited in their ability to enact fundamental policy changes.

CHAPTER FOUR

The "Horseless Headmen": Consumer Groups and the Challenge of Political Mobilization

Representative Barney Frank (D-MA) had the unenviable task of chairing the House Financial Services Committee during the largest financial crisis since the Great Depression. While speaking at a community organizers' event in Boston in March 2008, he was asked a question that would become familiar to Frank over the coming year: what are the legislative prospects for reform of the consumer lending industry? In his answer, Frank noted how difficult it would be for members of Congress to back robust reform without clear signs of support from their constituents, and he chastised consumer advocacy organizations for being "horseless headmen" (Byrnes 2008). In his own inimitable style, Frank identified a fundamental weakness of interest groups working on consumer credit issues: they had assembled a respected cadre of experts who wrote model laws and lobbied policymakers, but these organizations had failed to foment the necessary grassroots political mobilization to reinforce their efforts.

Frank's criticism was particularly troubling because at the time his comments were made, consumer financial advocates were actively engaged in a year-old organizational effort specifically intended to mobilize consumers toward political action on credit issues—apparently without great effect. In 2007, with the specter of financial crisis looming ominously on the horizon, several consumer advocacy groups coalesced to launch Americans for Fairness in Lending (AFFIL) as "a nonprofit organization dedicated to reforming the nation's lending industry to protect

Americans' financial assets."[43] Instead of relying on direct government lobbying, AFFIL attempted to grow a grassroots network of members who would share their stories with government officials and mobilize politically on behalf of borrowers. Despite an opportune moment for reform and a healthy dose of early money, the organization struggled to gain traction with the public and finally shuttered its windows in 2010.

While observers might write off this result as a single case of organizational failure, or perhaps as the byproduct of a downswing in consumer mobilization more generally, neither answer is adequate. Frank's blunt assessment of the shortcomings of consumer financial interest groups was not confined to a single organization, nor, as it happens, was it contingent on the current historical moment. In fact, the congressman's criticism echoed an earlier refrain of the federal policymakers wrestling to pass consumer credit legislation in the 1960s and 1970s during the heyday of the U.S. consumer movement.

At the 1967 Consumer Assembly, several prominent policymakers delivered a message to consumer advocates mirroring the sentiments that would be expressed by Frank some forty years in the future: if you want us to pass good legislation to protect consumers from lending abuses, you had better mobilize consumers. President Johnson told the gathered advocates, "It has been said that the consumer lobby is the most widespread in our land, yet the least vociferous and the least powerful. ... You can only wield the power that you have if you are willing to make yourselves heard" (Johnson 1967). The President's Special Assistant for Consumer Affairs, television

[43] From the AFFIL mission statement, available at http://americansforfairnessinlending.wordpress.com

personality-turned-political appointee Betty Furness, echoed his sentiments:

> "I have found that the voice of the consumer is more apt to be a whimper than a roar. ... We must convince him to…make himself heard on legislative issues that vitally affect him. ... Senators and Representatives want satisfied voters just as industry wants satisfied customers… it is up to us to persuade the individual consumer to become directly involved in government—consumer relations." (Furness 1967)

Representative Sullivan, who was mired in a bitter committee battle to usher a Truth in Lending Bill through passage, was more blunt in her directive to consumer groups:

> "As a Member of Congress deeply involved in many of the issues in which you are also concerned, I see much evidence of your interest—in your letters as officials of organizations or consumer groups. But I don't see much evidence of your effectiveness right now. You are not reaching your own people and enlisting their active help and support. ... On the House Floor, we will lose—our efforts for a strong bill will be killed—unless the public is aroused, and that means that you people must get busy, really busy, in reaching the rank and file."[44] (Sullivan 1967)

Historians of the consumer movement, broadly construed, often speak of the 1960s and early 1970s as the halcyon days of consumer activism (Nadel 1971; Pertshuck 1982; Cohen 2010; Jacobs 2011). But as these speeches from the 1967 Consumer Assembly make clear, while Nader's Raiders may have stormed the political gates to make their pleas for car, product, and food safety regulation, that same grassroots political mobilization did not extend to the realm of consumer finance. Despite being taken to task by supportive legislators as early as the 1960s, consumer advocacy organizations either did not or could not manifest the requested political engagement from their constituents on issues of consumer credit, even at the height of the larger consumer movement. And once again, this problem is more

[44] Emphasis in original text

puzzling because advocates have experienced some recent success engaging consumers in collective market action.

Why have consumer interest groups struggled—both historically and during the recent crisis—to mobilize borrowers toward political action on behalf of their grievances with financial products? The previous chapter addressed the depoliticizing pressure that consumer credit policies have exerted on individuals. This chapter continues the story by exploring the effects of that policy legacy on consumer financial advocacy organizations, and specifically, on their attempts to mobilize people toward political action. I begin by providing a brief narrative of the emergence of consumer financial advocacy organizations in the United States and the evolution of their efforts to mobilize consumers. I pay particular attention to the rise of two organizations—AFFIL and Americans for Financial Reform (AFR)—that were designed specifically to incite consumer political mobilization during the recent financial crisis, and the difficulties they encountered fulfilling that mission. I argue that a major stumbling block for these organizational efforts at political mobilization was the inability to generate a successful collective action frame.

In order for advocacy groups to effectively mobilize people toward a specific form of action, organizations need to create collective action frames that explicitly identify both a justification and a target for the requested action. Most importantly, the justification and target must resonate with the people being mobilized (Gamson 1982, 1997; Folger 1986; Klandermans 1997). With respect to the present case, organizations needed to employ resonant frames that defined consumers as citizens in need of state protection from corporate predation. I contend that this was an

exceptional challenge because of the personalizing and privatizing effects of policies central to the political economy of credit. How were advocacy organizations to create a resonant call to political action when the public did not see consumer credit as a political issue but, instead, as one of personal responsibility within the market?

Drawing on archival research conducted at the Consumer Movement Archives and interviews with consumer advocates representing four advocacy organizations (including AFFIL and its partners), I find that, while advocates identified this messaging challenge, they did not overcome it. By exploring records of the organizations' founding as well as transcripts of focus groups designed to test messages, I conclude that leaders were aware of the potential difficulty in orienting consumers toward political action. Through content analysis of AFFIL's major forms of communication—their blog and member emails—I identify the primary frames employed by AFFIL in their appeals for political action. As predicted, these appeals call on victims of predatory lending to mobilize politically without providing context for why consumers should turn to political actors for redress.

Did this mismatch between framing and consumer attitudes about credit weaken the efficacy of the organizations' efforts to mobilize consumers politically? If so, was there a realistic framing alternative that AFFIL and AFR could have employed—or that consumer groups could use in the future—to turn the public toward political action on credit issues? I turn to an original online survey and experiment to gain some leverage on these questions. Ultimately, I conclude that people's attitudes about personal responsibility in the use of credit do indeed discourage them from responding to organizational calls to political action in pursuit of more consumer

friendly credit terms. I find, however, that reminding people of government's obligation to regulate the credit industry can, at least temporarily, increase people's penchant for related political action.

The Evolution of Consumer Financial Advocacy Organizations

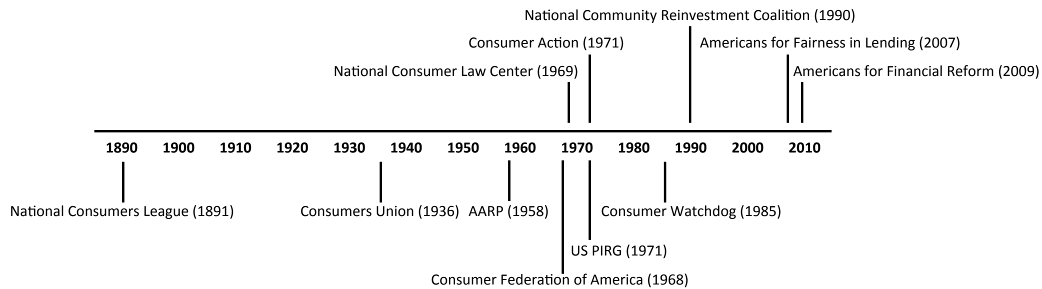
Scholars note that new public policies can spawn new interest groups (Walker 1983; Skocpol 1992; Pierson 1993). As Paul Pierson explains, "The activity of interest groups often seems to follow rather than precede the adoption of public policies" (1993: 598). Jack Walker offered one explanation for this phenomenon. Noting that many of the interest groups created in the post-war period came into being only after new public policies were enacted, Walker argued that when policies offer patronage benefits, groups have a greater incentive to form.

I argue that, as with individuals, the very presence or absence of policymaking in a particular arena may shape interest group behavior in other ways as well. If lawmakers are not engaged in policymaking for a particular issue, interest groups may still emerge but focus their energies on activity outside the political realm. By contrast, if a particular issue becomes subject to governing activity, interest groups may be more likely to direct their efforts toward the political sphere. In the case of consumer credit, government policymaking—or the lack thereof—appears to have shaped the behavior of interest groups in all of these ways.

Figure 4.1 illustrates the timeline along which two types of interest groups active on issues of consumer credit were founded. The organizations above the timeline work almost exclusively on consumer finance issues. Those below the timeline engage in a broader consumer agenda, but they also dedicate substantial

resources to consumer finance. While this figure does not include every single interest group that participates in consumer credit work, it represents the major organizations that are active at the federal level.

Figure 4.1: Timeline of Consumer Financial Advocacy Group Emergence



Prior to passage of the Truth in Lending Act in 1968, the federal government was virtually absent from the regulation of consumer credit. Also missing from the political landscape were interest groups solely dedicated to consumer credit protection. There were a few interest groups that engaged with consumer finance as part of their larger consumer protection mission, but prior to the consideration of federal credit legislation, these organizations restricted their activities primarily to influencing market, and not political, behavior. As discussed in Chapter Two, the early organizational effort came from progressive reformers at the turn of the twentieth century who sought to partner with charitable organizations to combat the "loan shark evil." It was also during this period that, in the relative absence of federal regulation of consumer goods and services more broadly, organizations like Consumer Research—from which Consumers Union would emerge in 1936—decided that educating consumers about "good buys" could help to offset the overwhelming market power wielded by manufacturers.

Groups founded prior to the federal regulatory burst of the 1960s and 1970s largely maintained a model of consumer advocacy through education. As the post-war consumer economy grew, these organizations saw their memberships balloon (Morse 1963; Cohen 2003).[45] And as more Americans began to use consumer financial products and services, they too were included in educational materials. But federal policymakers could not ignore mounting stories of wooly lending practices forever if they were to sustain a consumption economy fueled by credit, so serious legislative attempts to regulate credit became increasingly prominent throughout the 1960s. As government begin to insert itself more significantly into the regulation of consumer credit, the landscape of organizational activity around consumer financial protection changed as well.

From Education to Political Action

Theda Skocpol (2003) has described the growth of Washington D.C.-based, professionally staffed, elite-driven advocacy organizations that occurred beginning in the 1960s. This portrait is, in many ways, an accurate reflection of a new set of consumer financial advocacy groups that began to emerge in the late 1960s. Growing market segmentation ushered in an array of new consumer interest groups (Cohen 2003), but the emergence of a fragmented collection of organizations to speak up for the average consumer was also the result of progressive leadership decision making.

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[45] Initially, this educational activity had to be carried out in secrecy. As consumer advocate and economist Richard Morse explained, "Consumer Research was launched in a sea fearful of reprisal. Copies were confidential and members signed statements pledging to keep the copies out of circulation even among their friends...a far cry from today's practice of selling Consumers Union Reports (1963: 3)." The clandestine provision of information for consumers was understandable given that organizations like Consumers Union were eventually added to the House Un-American Activities Committee list of subversive organizations, a position they would not be removed from until the mid-1950s (Morse 1963).

As one veteran consumer advocate explained, “The movement was just very fragmented... There was a leader, Ralph Nader, who just believed in having a thousand organizations and letting them bloom” (1120141 November 2014).

Fragmented though they were, these new interest groups were fundamentally different from their predecessors in one important way: they were political. Emerging in the midst of the so-called “new social regulation” (see Derthick and Quirk 1985), these groups responded to the federal government’s willingness to expand its governing authority over a whole range of consumer issues—including credit—by engaging in explicitly political behavior. In 1967, the newly minted Consumer Federation of America (CFA) set out to bring together the scattershot representatives of local, state, and national consumer organizations from across the country for the first time. Their goal was to coordinate diffuse political advocacy for a handful of important legislative efforts, chief among them the Truth in Lending Bill.

The resulting Consumer Assembly, held in Washington, D.C., was a star-studded affair. The speakers for the event were a veritable who’s who of the consumer movement. President Johnson kicked off the meeting, and he was followed in succession by leading political figures—from both the executive branch and Congress—who stood at the forefront of the crusade to enact consumer protections across an array of issues, and in particular, the standard bearers for the Truth in Lending bill being debated in Congress when the assembly was held. While lawmakers acknowledged the growing political presence of the consumer groups, many speakers took the opportunity to chide advocates for failing to mobilize ordinary citizens to bolster their calls for consumer credit reform. Representative Sullivan

summarized the problem:

> "On the consumer credit bill, we have been hearing from some of the business interests which have a stake in the battle over revolving credit, but not from many consumers, who have a much larger stake in it. You good consumer leaders write us; your people don't." (1967)

Representative Patman, Chairman of the House Banking and Currency Committee responsible for the bill, echoed his colleague's concerns and further articulated the consequences of consumer political inaction:

> "While you are gaining growing recognition, I feel that there [are] some tremendous gaps...in consumer action. I must honestly say that I am gravely disappointed that there is so little mail, so little meaningful action from consumers... As a result, there are not too many members who are willing to stick their necks out on controversial issues. Particularly when they know there isn't going to be any great outpouring...from consumers. ...You and your organizations can do wonders to mobilize the forces on these important consumer issues. ...This is the kind of action that is desperately needed in the area of monetary affairs. ...If you want truth in lending—real truth in lending—then it is about time that each one of you let the House of Representatives know." (1967)

Unfortunately for consumer advocates, the fledgling organizations were not able to fully mobilize their members politically. The Truth in Lending Act (TILA) was eventually signed into law the year following the assembly, but it did not contain the more stringent consumer protections that advocates and legislative supporters like Sullivan and Patman hoped for. It did, however, set the expectation that regulating consumer lending was within the bounds of appropriate government activity.

As policymakers enacted more laws to regulate credit, new interest groups emerged to lobby in support of greater consumer financial protection. In fact, one of the most prominent consumer financial advocacy organizations to emerge from this period, the National Consumer Law Center (NCLC), was the direct result of public

policy. It was established in 1969 with funding from the Office of Economic Opportunity specifically to train attorneys to better represent low-income clients. One of NCLC's first programs was to prepare legal aid attorneys to use the new TILA requirements on behalf of their clients (Willier 1969).

Consumer advocacy organizations dedicated increasing time to political activities in the ensuing years, yet their focus remained primarily on insider lobbying and, occasionally, on coalition building. The annual reports from CFA provide evidence of this trend. The organization details its work on consumer financial issues in every annual report from 1975 through 2014[46], but rarely were the reported activities designed to directly mobilize consumer toward political action. For example, in 1982, CFA earmarked interest rate ceilings as one of four priority issues. The report provides a list of the major actions CFA took at the federal level, which included generating press coverage, working with congressional staffs, helping to plan congressional hearings, delivering congressional testimony, submitting comments to federal regulators, and sending mailings to organizations to help build an interest rate coalition. At the state level activities looked similar: conducting research on interest rate preemption across the states, lobbying state legislatures, and providing information to a variety of state policymakers (CFA 1982). The direct mobilization of consumers is glaringly absent from these lists.

New consumer financial advocacy groups like NCLC and CFA proliferated in response to increased federal policymaking on credit issues in the late 1960s. And unlike their predecessors, who emerged in a world relatively devoid of government

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[46] Annual reports for years before 1975 were not available at the Consumer Movements Archives.

activity on consumer protection, these new groups focused on political action instead of financial education as the most viable pathway to consumer protection. Advocates were determined that changing the law represented the best hope for protecting people from dangerous financial products and services. But these groups were not mobilizing consumers in meaningful ways, ultimately limiting the efficacy of their attempts to shape consumer credit regulation.

The Birth (and Death) of a "Unicorn"

By 2004, many advocates were convinced that a new organizational approach was necessary to achieve any substantive policy reform to reverse the trend of growing consumer debt borrowed under increasingly risky lending terms. Staff from NCLC organized a conference in Cleveland, OH to bring together more than one hundred representatives of major public interest groups from around the country to figure out a new collaborative strategy to tackle the problem of predatory lending (AFFIL 2006). The idea of creating an organization that could generate consumer political pressure to pair with the existing lobbying infrastructure found quick support amongst attendees. A staff attorney from NCLC clarified the need for such an organization, explaining, "[W]e are going to have to fight a hard congressional battle in Washington. We cannot do this without grassroots support from across the country…" (AFFIL 2004). A representative from one of the major faith-based organizations encapsulated what would become the mission of the new organization: "Three words come to mind after being here the last two days. They are: Awareness, Action, and Change. We make people aware and give them some action to do to empower themselves so they can create the changed end result" (AFFIL 2004).

AFFIL was the result of the Cleveland conference.[47] It was officially established in 2006 and launched publicly in 2007. Headquartered at NCLC in Boston, MA, its stated mission was to "build a groundswell of support to put credit issues on the national agenda to lead to a return of fairness in lending and bring about the re-regulation of credit" (AFFIL 2006). As one of the advocates involved in AFFIL's founding explained, "We ended up identifying our niche as an...organizer. ... We tried to get signatures on petitions...we tried to mobilize people to send in comments, to call their Senators, etc." (1120142 November 2014). Taking on the role of grassroots organizer was especially important because none of the existing national consumer groups could claim that expertise (Kelly 2009). According to another advocate, who was heavily involved in the legislative efforts to secure stronger credit protections for consumers, "AFFIL was – let's be clear – it wasn't just unusual, it was unheard of. It hadn't happened before, and it hasn't happened since. AFFIL was a unicorn" (0312151 March 2015).

The unicorn caught the attention of funders, and both the Ford and Annie E. Casey Foundations provided financial support to AFFIL during its initial years of operation (AFFIL 2007a; 1120142 November 2014). In a move promoted by the Ford Foundation, one of the first things AFFIL did as a precursor to mobilizing consumers was to engage the services of a consultant, Benenson Janson, to launch a campaign designed to raise public awareness about the need for federal credit regulation.

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[47] While AFFIL developed a substantial membership list, it does not meet the qualifications for a federated membership organization set forth by Theda Skocpol (2003). Members donated to the organization, but they did not pay dues, nor did they receive the types of benefits that Mancur Olson (1965) suggests induce collective action. However, many of the AFFILs partner organizations, for example, AARP and Consumers Union, do meet both of these criteria. And the partner organizations were engaged in the dissemination of AFFIL material to their own members.

Advertisements were created, and while only a limited number were placed in media outlets (1120142 November 2014), the campaign itself actually garnered its own press coverage in major newspapers including the New York Times (Elliott 2007).

Figure 4.2: AFFIL Predatory Lending Reform Advertisement, NY Times 2007

AFFIL encountered some success with two other early initiatives designed to raise awareness of the need for federal credit regulation. They collaborated in 2007 with filmmaker James Scurlock on a campaign to organize watch parties around the country for his film *Maxed Out*, a documentary on the growth of predatory lending in the United States. In what one advocate described as "the biggest sort of real-world organizing we did" (1120142 November 2014), more than 450 house parties were set up to screen the film in AFFIL's first year of action (AFFIL 2008a). In addition to the movie screenings, AFFIL worked to collect personal stories from those affected by predatory lending. While consumers contributed to this archive, the most powerful narratives ultimately came from former customer service employees of financial institutions. Their stories garnered quite a bit of media attention, but, as with the *Maxed Out* and ad campaigns, none of these activities directly mobilized consumers toward political action.

While these awareness-raising campaigns were underway, AFFIL dug in to the work of building up their membership base and mobilizing them to take political action. The organization was particularly interested in trying to engage injured consumers, citizen activists, members of community and civil rights groups, and people who were already involved in more general political activity (AFFIL 2007a). One of their earliest attempts was designed to mobilize college students and young adults around the issue of predatory credit cards, but the campaign fell well short of its initial goals (AFFIL 2007b).

During 2008, AFFIL dedicated a tremendous amount of energy to mobilizing its members to support the CARD Act being considered by Congress. One advocate involved in the effort estimated that they "had 10,000 comments submitted to the Fed about the credit card bill. Maybe a thousand of them were personally composed" (1120142 November 2014). AFFIL's own internal records present a more muted assessment. A summary of the organization's 2008 activities on the CARD Act report that, while nearly 10,000 people signed an online petition asking the Fed to reform credit card lending that AFFIL was a partner in launching, about 300 people actually submitted comments to the agency and 300 submitted comments to their members of Congress in response to AFFIL's communication (AFFIL 2008a). Another leading activist who was intimately involved in the federal lobbying effort for the CARD Act argued that even these successes could not be laid at the feet of consumer interest groups: "I'm sure lots of people would like to take credit for [consumer comments], but I don't think we can" (0312151 March 2015). Instead, he pointed to the efforts of congressional staffs that engaged in direct outreach to their constituents to drum up

support for the bill, crediting their work for the unusual outpouring of citizen support.

The fairly modest effect on consumer political engagement is reflected in AFFIL's own assessment of its mobilizing efforts. The organization's director reported in a 2008 internal memo evaluating the year's activities that, "It seems fair to say that this is, overall, a disappointing record of progress on the limited set of initiatives" (Campen 2008). Yet AFFIL was unable to figure out how to complete their mobilizing mission more successfully. They attempted a new campaign to rally their growing slate of members during the fight to pass financial reform in 2009, but their success was once again very limited. Eventually, AFFIL's funders begin to lose interest as the organization failed to achieve much "measurable" success in mobilizing consumers (AFFIL 2008b).

As the end of 2009 approached, staff could see the writing on the wall. The organization had enough money to run for one more year, but instead of continuing on with its unsuccessful attempts at political mobilization AFFIL decided to lend its remaining staff and expertise to a new coalition that was forming to represent consumer interests during the heated congressional debate over the Dodd-Frank Act: Americans for Financial Reform (AFR). As one of AFFIL's staff members explained, "Our board went to AFR and was like, 'we would like to donate our staff to you guys for next year, since this is such a critical year. Here, take us.' And that's what we did, and then we wound down" (1120142 November 2014). AFFIL's staff, a membership list of nearly 26,000 people, and a social media network nearing 20,000 followers rolled over into the newly formed AFR (AFFIL 2010).

A Second Attempt

Americans for Financial Reform built on the coalition model that was, at least with respect to the issue of predatory lending, pioneered by AFFIL. But it was a different beast from the beginning. AFR was larger in scale than its predecessor, and it was led by a duo of formidable, experienced organizers. Heather Booth, a progressive activist who cut her teeth during Freedom Summer in 1964, was tapped to be the executive director of the new coalition. Her deputy, Lisa Donner, was hired both for her field organizing experience and her knowledge of consumer financial issues. While AFFIL's mission was primarily about cultivating political action among the public, AFR planned to combine insider lobbying with outside grassroots mobilization efforts to achieve their goal of lending reform. To that end, AFR was built with three major departments: legislative, communication, and field mobilization (Kirsch and Mayer 2013).

AFR experienced considerable success in their lobbying efforts. Drawing on the resources and reputations of a diverse coalition of partners, AFR's legislative team played a key role at several critical moments during the debate over Dodd-Frank. Most notably, they helped ensure that the CFPB remained in the final legislation (Kirsch and Mayer 2013). In a steering committee meeting held the day before President Obama signed Dodd-Frank into law, a representative of one of the coalition partners summed up AFR's legislative efforts:

> "From the experience of someone who has been part of many issue campaigns, this was a remarkable effort—outstanding. ... [W]hat we had was a super-sophisticated inside game. We were involved deeply in the legislative process, and we leveraged the smarts of people inside and outside the Beltway." (AFR 2010)

AFR's attempts to mobilize consumers produced a far more mixed result. The organization sought to make the most of its resources by targeting specific districts for engaging citizens' political support for the bill. Rather than relying on their own outreach, AFR identified local political actors, like Illinois Attorney General Lisa Madigan, who could make use of their own contacts to encourage voters to express their support to their members of Congress (Kirsch and Mayer 2013). To the limited extent that AFR succeeded in mobilizing consumers toward political action, it was primarily the result of active outreach from established political leaders.

But AFR did mobilize consumers in significant numbers to another type of action. With the help of local organizations and their national partners, AFR collaborated on a series of well-attended demonstrations and protests designed to target lenders themselves during 2009 and 2010. Consumer groups could not get citizens to take political action in large numbers, but they were able to mobilize more than 5,000 people to protest the 2009 annual meeting of the American Bankers Association at the so-called "Showdown in Chicago." As Dodd-Frank neared a vote in Congress, additional well-attended showdowns were held outside of bank headquarters in Florida, Illinois, Indiana, Massachusetts, Missouri, Montana, New York, North Carolina, Ohio, Washington, and Washington D.C. (AFR 2009). The largest of these drew as many as 8,000 protesters to Wall Street more than a year before Occupy Wall Street materialized (Kirsch and Mayer 2013). While these market-centered events demonstrated consumers' willingness to express their anger over lending practices in some form, they had little effect on either banking practices or the banks' willingness to back off from their attempts to weaken Dodd-Frank.

Dodd-Frank was signed into law on July 21, 2010. While the lobbying efforts by AFR and its allies helped to create the independent CFPB, a procedural victory for advocates, the new law did not provide the more substantive reforms to existing consumer credit protections that groups like AFFIL and AFR had championed (McCarty et al. 2013; McGhee 2015). Ordinary Americans simply were not moved to demand those reforms from their elected representatives, even as they made similar demands of the very lenders who profited from the lack of more stringent regulation.

AFR's board gathered to dissect their efforts as Dodd-Frank was on the verge of becoming the law of the land (AFR 2010). The board summed up what they had set out to accomplish: "Our first goal was to pass this bill. The second goal was to help build a movement that could advance these efforts in order to win and sustain future victories and help build a broader movement for change." A member of the leadership team concluded that they had "achieved the first goal, beyond almost anyone's expectation." For the second, however, another member present acquiesced, "It would have been possible to do more Field. Strategically, at the grassroots level, we failed to offset the real or perceived grassroots strength of the Tea Party." In their analysis of the lobbying effort to enact financial reform, Robert Mayer and Larry Kirsch agreed, explaining, "Ultimately, AFR fell short in its ability to channel suffering and anger into political demands for strong regulatory reform" (2013:153). Unlike its immediate predecessor, AFR has remained a robust organization, but its work today is primarily focused on insider lobbying.

Why Political Mobilization Did Not Work

The previous chapter offered a policy-driven explanation for why consumers

themselves are unlikely to initiate political action to address either specific borrowing problems or more general concerns with risky lending practices. But direct mobilization by political actors and organizations is typically acknowledged as one of the best ways to get citizens to engage in political action (Rosenstone and Hansen 1993). Why, then, have consumer organizations struggled in their attempts to do just that? The question is especially perplexing because these groups have experienced modest success in getting consumers to engage in collective action directed toward lenders.

Collective action is notoriously difficult to achieve (Olson 1965), but scholars of social movements and contentious politics typically coalesce around three factors as necessary motivators of large-scale mobilization: expanding political opportunities that alter the ability of previously-excluded groups to participate gainfully in the political process (Tarrow 1998; Tilly 2004), mobilizing structures that provide necessary resources for organizing (McCarthy and Zald 1973, 1996; McAdam 1982), and collective action frames employed by the movement (Gamson 1992; Klandermans 1997). Have these factors been present for consumer financial interest groups, or has the absence of one or more factors inhibited the efforts of organizations like AFFIL and AFR to engage consumers in political action on credit issues?

Political Opportunity

New movements arise when political opportunities expand to allow the entry of groups previously excluded from meaningful participation. This generally occurs when some broad process of social change restructures existing political arrangements, creating rifts among elites and freeing up new potential allies and external resources

(McAdam 1982; Tarrow 1998). Scholars argue that without these political opportunity structures, very little incentive exists for individuals and organizations to expend resources mobilizing collectively in pursuit of a particular goal.

To what degree have political opportunities existed for consumer mobilization around credit issues? The 1960s and early 1970s witnessed several changes to the political landscape that made consumer mobilization more favorable. Presidents from Kennedy through Nixon brought consumer interests front and center with the creation of consumer councils within the executive branch. Similarly, Congress was debating a string of laws to regulate the growing credit market for the first time. And, as we have seen, representatives—both executive and legislative—were encouraging consumers to act to help secure strong consumer protections.

While these events provided historical opportunities for borrowers to engage in political action to secure credit protections, the onset of the financial crisis in 2007 created another obvious opportunity for consumer political activism. The magnitude of the resulting recession, combined with the role that predatory consumer financial products played in its creation, set the stage for legislative reform (Johnson and Kwak 2010). Not only was reform on the agenda, but the financial industry was also in an unusually precarious position, diminishing to an extent their political advantage relative to public interest groups (Johnson and Kwak 2010; 0312151 March 2015). The window of political opportunity was thrown open even wider after 2008, when elections ushered in a two-year period of unified Democratic governance. During this political opening, Congress and President Obama enacted additional credit card regulations through the CARD Act of 2009 and financial reform with Dodd-Frank.

These legislative undertakings, past and present, provided obvious opportunities for consumers to mobilize politically, yet they did not.

Resources for Mobilization

Perhaps consumer interest groups had inadequate mobilizing structures with which to instigate political action among disgruntled borrowers. Organizational infrastructure, leadership, and money are all necessary for sustained, large-scale collective action on any particular issue (McCarthy and Zald 1973; McAdam 1982). Did organizations advocating consumer credit reform possess these resources? As this chapter has described, a plethora of consumer groups—many with significant membership rolls—have been increasingly active in their attempts to mobilize consumers over the last few years. With the creation of AFFIL in 2007 and AFR in 2009, the organizational structure was in place to mobilize grassroots political support among borrowers, and seasoned organizers staffed these organizations.

Consumers were also not without leadership in the form of a policy entrepreneur. Much like Harvey Wiley's efforts at collective mobilization on behalf of the Pure Food and Drug Act in 1906 and Ralph Nader's publicly galvanizing pursuit of auto safety in the 1960s, Elizabeth Warren emerged as a vocal advocate for consumer financial protection prior to the crisis. Like both Wiley and Nader before her, Warren was well known to the public, particularly by the time legislative action reached its peak in 2010 (Kirsch and Mayer 2013). While Warren was already well regarded within the advocacy community, her public profile as an advocate for consumer credit reform begin to grow after she published "Unsafe at any Rate" in 2007. In what *Washington Post* columnist Ezra Klein (2010) called the most

influential policy article of the decade, Warren articulated a vision for a consumer financial product safety committee that became the blueprint for the CFPB (Warren 2007). Warren was then tapped by Senate Majority Leader Harry Reid to serve as one of five outside experts on the Congressional Oversight Panel for the Troubled Asset Relief Program (TARP) enacted by Congress in 2008. Her reputation as a champion for consumer financial reform continued to grow during debate over the formation of a Consumer Financial Protection Bureau and her subsequent election to the Senate.

The organizational infrastructure and leadership was in place to generate collective political action among consumers, but did consumer advocates have sufficient resources to accomplish their goal? Upon reflection, leaders in the advocacy community point to a relative lack of resources as one of the reasons their grassroots efforts may not have been successful. As one senior staff member of a consumer organization explained, "[I]f you look across different sectors, the...resources...of consumer groups, compared to say, comparable groups elsewhere—environmental groups, health and safety groups, etc.—far more limited and it's always our major weakness" (0312151 March 2015). The director of another advocacy organization further illuminated the struggle for a group like AFFIL, which relied largely on foundation support, to secure funding for grassroots mobilization:

> "A lot of grassroots lobbying, most foundations would never fund. Sometimes a fine line between grassroots activism and grassroots lobbying, but in the best of campaigns, grassroots organizing would morph into grassroots lobbying. Who's going to pay for that?" (1119141 November 2014)

While consumer financial advocates may possess fewer resources than comparable other public interest groups, this point should not be overstated.

Consumers Union has an operating budget of nearly a quarter of a billion dollars annually, and Public Citizen, the National Consumer Law Center, and the Center for Responsible Lending each have annual budgets exceeding eight million dollars (Mayer 2012). At least eight national consumer advocacy groups dedicated in part or whole to consumer credit reform have annual budgets topping two million dollars, and foundations were initially supportive of the grassroots mission of AFFIL. As one AFFIL staffer explained, funders were excited by the organization's prospects until they failed to deliver:

> "It was two huge, huge grants. Huge grant from Ford—like $300,00 or $400,000. Ridiculous. And a grant from Casey, [$300,000]. They kept funding us for two, three, years whatever, and then finally they were like 'we're not funding you anymore – you're not doing what we thought you were going to do.'" (1120142 November 2014)

Access to more resources would undoubtedly have increased the capacity of these groups to mobilize consumers, but their inability to generate citizen political action cannot be attributed solely to insufficient funds—especially when these organizations were able to engage borrowers in large-scale market mobilization. If consumer groups possessed sufficient mobilizing structures to engage in relatively successful lobbying efforts and to organize market protests, then perhaps the failure to engender consumer political action can be attributed to the way these resources were applied.

Collective Action Frames

One of the most important tasks advocacy organizations must accomplish in order to convince people to take part in a particular action is to create a successful collective action frame—a "set of action-oriented beliefs and meanings that inspire

and legitimate social movement activities and campaigns" (Gamson 1992; McCarthy and Zald 1996). Simply put, people are not willing to do something without a compelling reason. A successful collective action frame typically meets three criteria: it taps into a sense of injustice or unequal treatment, it establishes a group identity, and it establishes an appropriate target for action (Gamson 1992; Folger 1986; Klandermans 1997). Each of these pieces must also resonate with the attitudes of the people being mobilized (Benford and Snow 2000). I argue that it is this final requirement of mass mobilization, the creation of resonant collective action frames, which proved to be the major stumbling block to organizational attempts to mobilize consumers politically.

When Policies Preempt Political Mobilization

For the purpose of consumer mobilization, a successful collective action frame would first need to capture existing individual discontent with the current experience of consumer financial products and services. Given the growing dissatisfaction with consumer credit and lenders described in the previous chapter, tapping into the frustration of borrowers should not have provided much of a challenge. It is the other two elements—appealing to collective identity and pinpointing government as the target for action to rectify the problem of predatory lending—that I contend presented a problem. Chapter Three argued that consumer credit policies have relied upon remedies and methods of implementation that both personalize and privatize people's relationship with consumer credit. As a result, consumers are predisposed toward transactional methods of pursuing grievances with the consumer financial industry. That is to say, "responsible" consumers are more likely to engage in individual,

market-based actions to solve their credit problems. So for advocacy organizations to successfully employ a collective action frame that defines consumers as victims of corporate or capitalist abuse and encourages them to seek redress from government, these groups had to find a way to overcome the policy-induced preferences of borrowers—a tremendous messaging challenge.

Focusing on AFFIL as a case study, the following section explores 1) the extent to which this disconnect between consumer preferences and organizational collective action frames existed and 2) whether it diminished the efficacy of AFFIL's attempts at political mobilization. I begin by exploring AFFIL's own records, preserved at the Consumer Movement Archives, for evidence of such a messaging problem. I then use a mock action appeal, which resembles those employed by AFFIL, to see whether people's underlying attitudes about credit as a personalized and privatized issue negatively affected their willingness to acquiesce to organizational pleas for political action. Finally, I consider whether consumer groups could have overcome this problem by priming borrowers to be attentive to government's role in the regulation of credit.

The Messaging Dilemma

When consumer advocates gathered at that 2004 Cleveland conference to discuss the potential for a new organization designed explicitly to mobilize consumers toward political action, they acknowledged the need for a compelling message. One leading consumer advocate offered an incredibly prescient analysis of the problem they faced, lamenting:

"[W]e're not going to change values but you have to have a program that

> recognizes values and takes them over. Unfortunately, in the bankruptcy campaign the industry took over 'responsibility,' predatory lenders took over 'choice' and 'freedom,' [and] in the Fair Credit reporting campaign [industry] took over 'protection' of consumer credit." (AFFIL 2004)

The concerns voiced by attendees affirm the idea of the collective action framing problem presented in this chapter. They expressed worry over the prospect of balancing the impression that consumers are responsible market actors with the need to convince them that they are also victims of predatory lending. As one of the representatives from Consumers Union observed at the 2004 conference, "[I]t's not just about personal responsibility and making it look like it's the consumer's fault. I think it's really important, whatever the ultimate message is, that it include the concept that this affects all of us" (AFFIL 2004). Another attendee was concerned that people's inability to connect government regulation to credit problems would inhibit their willingness to take political action, positing:

> "People have forgotten that the government controls these corporations. Or at least used to. The average citizen looks at corporations and thinks it's only the bottom line that can govern them. So unless we teach people that they have the power to regulate we won't get anywhere." (AFFIL 2004)

Identifying a message that could overcome these obstacles became a priority for the new organization. Attendees actually saw presentations by two consulting groups—Spitfire and Benenson Jansen—that offered differing visions for what AFFIL could be. Ultimately, it was the latter group's focus on message testing that won over the consumer advocates (AFFIL 2004). As one attendee expressed, "I'm very excited about being part of research that tries to figure out [do] we focus on victims, do we focus on bad guys, what's the key? So to me, message is what I'm most excited about" (AFFIL 2004).

Once AFFIL was officially created, one of the first steps was to brainstorm and test potential messages designed to engage and mobilize consumers toward political action on lending reform. The firm Belden, Russonello, and Stewart was hired to conduct focus groups for several separate messaging campaigns that had been created by Benenson Jansen. Most of the campaigns focused on individual stories about the consequences of predatory loans, relying on personal stories to draw people in. One, however, framed the consequences in terms of government deregulation. In a series of advertisements depicting individuals and families who appeared to be living in the woods (seen in Figure 4.2), this campaign directly pointed the finger at government deregulation for the growth of predatory lending.

Four separate focus groups were conducted in Chicago from June 12-13, 2006 to explore how people responded to the messages presented in each campaign. Participants included a multi-ethnic group of middle-income voters between the ages of 25 and 65 who were active in their communities. Each focus group was divided by age and gender. The first was comprised of women between the ages of 25 and 45, the second of men ages 25 to 45, the third of men ages 46 to 65, and the final of women ages 46 to 65 (Belden, Russonello, and Stewart 2006). Each group saw all of the campaigns, and the responses were remarkably consistent across all four groups.

The focus groups provide further evidence to support the theory proposed in this chapter. A summary of the sessions compiled by the moderators noted that participants were initially inclined to attribute any issues borrowers had to their own bad decisions, remarking frequently that people should be able to make responsible choices about credit (Belden, Russonello, and Stewart 2006). As one young male

participant described “When we started out the conversation...everybody was saying these people are stupid enough to sign on the dotted line next to 375% [interest].” Another woman echoed this sentiment, explaining how it affected her willingness to work toward predatory lending reform. In response to a series of ads depicting victims of predatory lending she concluded, “Honestly, after reading all of these, I wouldn't [take action] because I think that you should be able to compute what you’re going to be paying. ... I think it’s kind of on them for making that choice.”

The moderators’ analysis of the focus group concludes that participants’ beliefs that credit problems were the consequence of bad decision making on the part of borrowers lessened their interest in responding to appeals to take action. But there was an exception. Messages that could give consumers a reason to blame government, and not consumers, for problems with credit made participants more likely to say they would follow up on the call to action. For example, in response to an ad that explicitly pointed a finger at federal deregulation of credit for the rise in risky lending terms, a male participant said, “I didn’t know that since the 80s the lending laws or credit laws have been deregulated.” An older woman also found this ad compelling, explaining, “The print that grabs my interest the most is the fact that consumer lending laws were deregulated in the 1980s. That’s when all this stuff started happening. The deregulation of the laws allowed the finance and mortgage companies to do whatever they choose.” As a result of these reactions, the focus group summary concludes:

> “[P]articipants are also sometimes too quick to place blame on the victim... Therefore...communications must...turn the message so that it clearly places the blame on laws that enable predatory lenders and shows the need for policy change.” (Belden, Russonello, and Stewart 2006: 5)

In summary, the findings from the focus groups are in concert with the idea that consumer groups like AFFIL needed to find a way to overcome a collective action framing problem. Ordinary Americans were predisposed to believe that problems with credit were predominantly the fault of the individual borrower. Appeals that referred to borrowers as victims and the government as the best source of protection for them simply did not resonate with people. The only way to overcome this problem, the moderators found, was to give people a reason to shift the blame for credit problems from individual borrowers and lenders to political actors.

AFFIL's Appeal Dilemma

In reality, executing this task was easier said than done. It would not be enough simply to tell people they were victims of predatory lending and ask them to contact a policymaker to do something about it. Instead, appeals to action needed to provide readers with a compelling reason to turn to government. Was the organization able to do this? To find out if and how AFFIL dealt with this framing dilemma, I conducted content analysis of 145 major action appeals emailed by AFFIL to its members over the entire course of the organization's existence. These emails were identified in AFFIL's archival material as representing all major action alerts. While this sample may not be the entire universe of appeals sent by the organization, the fact that these emails were identified as significant by the organization itself suggests that they are representative of how the organization tried to engage its members. The sample represents an average of four emails per month sent between May 2007 and September 2010. Email was the primary form of communication with members, and AFFIL reported an average open rate of at least 25 percent and an average click-through rate

of at least 35 percent—on par with or exceeding industry averages (AFFIL 2010).

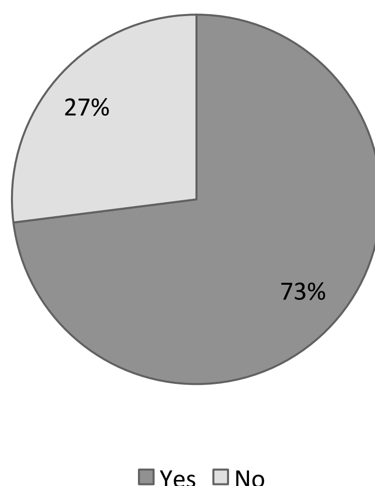
Because the emails were physical copies, I read each email individually to determine the target of action it requested and the language it used to make that request. As a robustness check, I created a searchable electronic document for each email using optical character recognition, and then I analyzed them electronically for the search terms described in the section on email tone. The patterns were consistent with the hand-coded emails, but the data reported in this chapter reflects my original hand coding for two reasons. First, it was too difficult to differentiate between mentions of political and market actors and actual appeals for specific action using search terms. Second, the quality of the electronic documents was not sufficiently high to ensure that the automated content analysis captured all of the terms even for the tonal analysis.

I began by analyzing the presence of an action appeal in each email.[48] The email was considered to have an action appeal if it requested that the reader do something beyond looking at media or educational information about lending. For example, the email was coded as having an action appeal if it asked the reader to sign a petition or contact a specified actor in a specified way. Once the presence of an action appeal was identified, the target of action was identified. Each email was coded as requesting political action if it directed the recipient to contact a government actor, including a candidate for office, legislator, executive, or governmental agency, in any way. If an email asked the recipient to contact a financial institution or trade

[48] Each of the variables discussed in the following section on email content analysis were coded as dummies, where the presence of the variable (e.g., calling for political action) equals one and the absence equals zero.

association in some way, it was coded as requesting market action.[49] Emails received a separate code for market and political action because, while rare, a single request might direct recipients to contact both types of actors.[50] The results for political and market action appeals are reported in Figures 4.3 and 4.4 respectively.

Figure 4.3: Percent of all AFFIL Appeal Emails Requesting Political Action



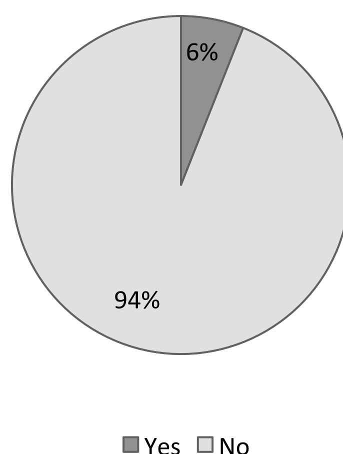
Nearly three of every four appeals (73 percent) requested at least one political action. Of those emails requesting political action, 85 percent asked the recipient to contact a member of the legislature and 15 percent asked them to submit a comment to a regulator agency. One email requested that recipients contact the 2008 presidential candidates to encourage them to endorse AFFIL's fair lending principles.

By contrast, only about one of every twenty emails (six percent) asked

[49] Emails were also coded for whether they requested an organizational action, for example, making a donation to AFFIL. Thirty percent of the emails requested organizational actions either in addition to or in lieu of a market or political action.
[50] The dummy variables for market action and political action account for the presence and not the number of respective actions requested in the email. So, for example, if an email asked the recipient to both call a member of Congress and to submit a comment to the FRB, that email is still coded one for political action.

members to take market action. One third of the market action appeals (33 percent) asked the recipient to contact a bank. The remaining two thirds encouraged the recipient to engage in protest activity directed at either an individual financial institution or the American Banker's Association at the so-called "showdowns" discussed earlier in this chapter.

Figure 4.4: Percent of all AFFIL Appeal Emails Requesting Market Action



The trend is clear: AFFIL was primarily concerned with getting its members to contact governmental officials to support consumer credit reforms, despite the fact that consumers were not predisposed toward government action. How, then, did AFFIL try to convince its members to take the desired political action? In addition to the target of action, I also coded each email for the presence of five different frames—personal responsibility[51], rights[52], fairness[53], protection[54], and predatory lending[55]—used to talk about borrowers and lenders. Personal responsibility frames included any that

[51] Terms included educat*, smart decision*, smart shop*, responsibl* (when discussing consumers)
[52] Terms included right* (when referring to consumers), justice, discriminat*
[53] Terms included fair*, unfair*, decept*
[54] Terms included protect*, saf*, unsafe, victim*
[55] Terms included predator*, abus*, greed*, trick*, trap*, fraud*, scam*

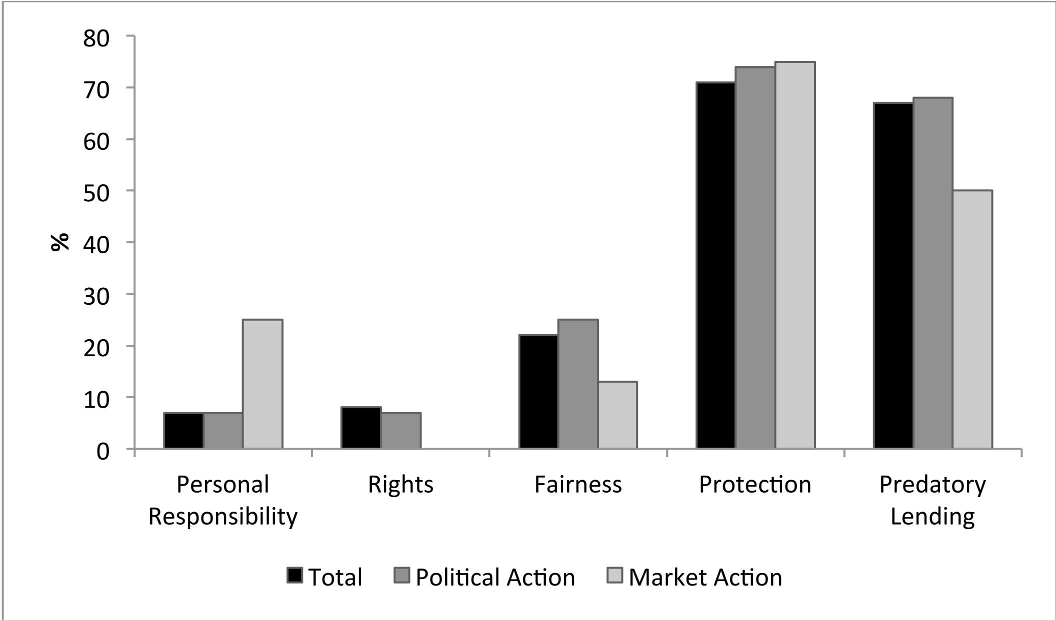
provided information to consumers with the suggestion that they use it to make good choices about credit shopping. Rights frames included language that suggested consumers' rights were being violated by a particular practice or law. For example, action appeals about mandatory arbitration—the practice most lenders employ of forcing borrowers to give up the ability to pursue court action over credit grievances—often spoke about consumers' "rights to trial." Fairness frames included those that suggested banks, or policies, were treating consumers unfairly in some way, for example, by suggesting that they were providing insufficient information about a credit product. Protection frames included any references to consumer safety, a government responsibility to protect consumers, or the idea that consumers were being victimized in some way by lenders. Finally, predatory frames captured any references to banks as predators or abusers, for example, by suggesting that banks were preying on young borrowers by peddling high-rate credit cards on college campuses. Once again, the presence of each of these frames was coded separately to account for the possibility that a single email might contain multiple themes.

Responsibility, rights, and fairness frames correspond to an image of the consumer as a rational market actor. They are consistent with the idea that as long as consumers have enough information, or the ability to avail themselves of their legal rights, they ought to be able to make responsible credit choices. By contrast, the protection and predatory frames suggest that consumers are inherently unable to protect themselves from financial abuse without assistance from somewhere. The first group of frames aligns with policy-generated attitudes about individual, responsible consumption, while the second suggests that consumers need government to intervene

on their behalf. Figure 4.5 presents the distribution of each frame for all emails and for those specifically targeting market versus political action.

The most obvious trend is the frequency with which AFFIL emphasized the predatory nature of lenders and the need to protect consumers in its appeals.

Figure 4.5: Percent of all AFFIL Action Appeals with Each Frame



More than seven in ten appeals (71 percent) talked about consumers as victims in need of protection, and almost as many (67 percent) made explicit reference to lending as predatory. Even half of all appeals for market action accused lenders of engaging in predatory practices. These frames are antithetical to the idea that borrowers are simply rational market actors responsible for their own financial fortunes. In fact, fewer than ten percent of AFFIL appeals talked about consumers in these terms, although a quarter of appeals calling for market action referred to the

responsibility of consumers.[56] About a quarter of all appeals framed the problems with consumer lending in terms of fairness, arguing that political action was necessary to ensure a fair market. These frames fall more in line with the idea of rational market action, but they still represent a relatively small fraction of all appeals. Finally, a small number of appeals (8 percent) discussed the need for action to secure legal rights. Nearly all of these appeals were designed to drum up support to eradicate mandatory arbitration clauses in credit contracts.

These results demonstrate that AFFIL was most likely to ask its members to engage in political action to secure their protection from unscrupulous lenders, a frame at odds with consumers' preexisting attitudes about credit. But perhaps AFFIL employed distinctive language in appeals to members, who may have been more inclined than the average public to accept the idea that borrowers were victims of predatory lending in need of state protection. In order to determine if the frames used to rally members were different from those used to generate action among the wider public, I conducted further content analysis of AFFIL's blog, its main interface with the public. The organization posted 431 items between February 2007 and September 2010, during which time the site recorded over 500,000 hits.

To demonstrate that the blog did in fact reach a wider audience than its membership base, Figure 4.6 illustrates the effective number of page views[57] for the blog during AFFIL's first year by the method people used to access the site. While

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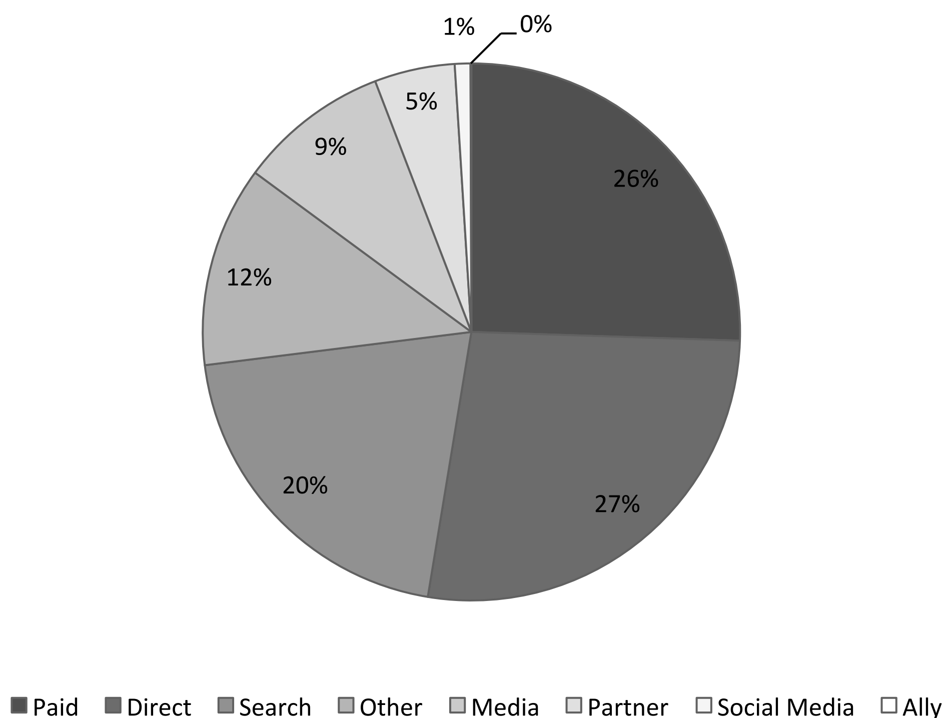
[56] Interestingly, the majority of appeals that combined a request for market action with frames highlighting personal responsibility were tips for safe holiday shopping released around Christmas.

[57] I calculated the effective page views by source by multiplying the number of visits by the average pages per visit for each source using AFFIL's Google analytics data from April 20, 2007 through June 5, 2008, which was preserved in the archives (AFFIL 2008c).

about a quarter of AFFIL's web traffic (27 percent) was generated "direct" from member emails, the remaining three quarters came to the webpage from other sources. About a quarter of all page views (26 percent) were generated from paid advertisements. Another thirty percent of page views came either from search engines or media outlets. The diversity in how people reached AFFIL's webpage suggests that the blog reached, and was designed to reach, a wider audience than simply its own members.

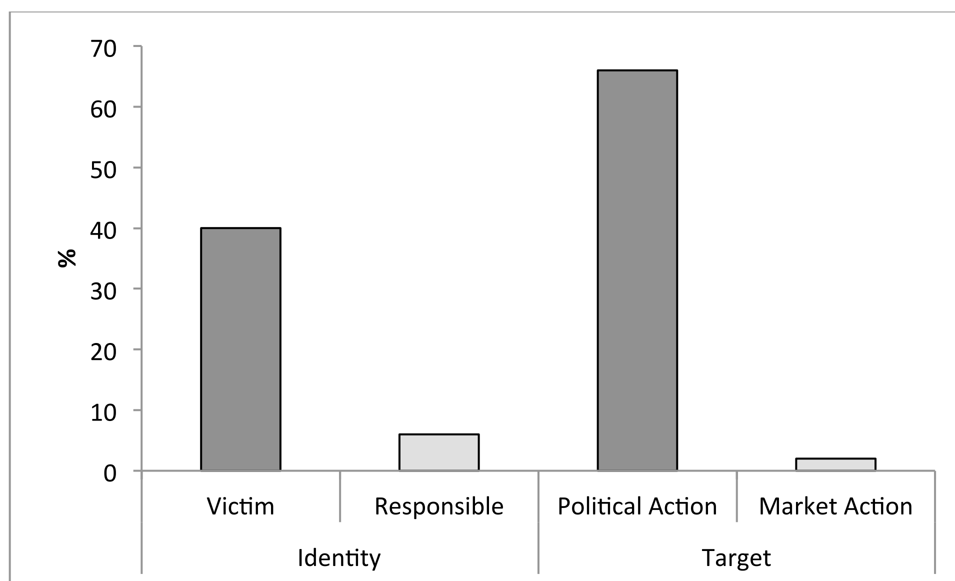
Figure 4.6: Effective AFFIL Website Page Views by Source, 2007-2008



I coded each of the 431 posts using the same criteria as the emails to determine whether it included an appeal to market action and an appeal to political action. Instead of coding the posts for all five types of frames, I combined the terms into two broad categories. Frames about predatory lending and protection were combined into

one “victim” category, and frames about personal responsibility, rights, and fairness were combined into one “responsible” category. For example, a post on March 1, 2010 titled “Call for Reform” began with the request, “Don’t let the lobbyists drown you out: call your Senators and tell them that we need real financial reform that will hold big banks accountable.” This was coded as a political action appeal. The post then went on to include the following reasoning: “Real reform will protect working families and small businesses by reining in the greedy, reckless behavior of big banks on Wall Street. Reform will crack down on the abuses committed by credit card companies and the mortgage lending industry.” This post mentions both “protecting” working families and “greedy, reckless” banks that perpetuate “abuses” on borrowers. It was coded as a “victim” frame. The results of the blog post analysis are presented in Figure 4.7.

Figure 4.7: Percent of all AFFIL Blog Posts with Each Frame



As Figure 4.7 demonstrates, the frames employed to appeal to a wider audience are nearly identical to those in the member emails with respect to the target

of action they call for. Two-thirds of all appeals (66 percent) included a request to take political action, while only two percent of appeals requested market action. The gap between victim (40 percent) and personal responsibility (six percent) frames is not quite as wide for the blog posts as it is for the emails, but there is still a 36-percentage point difference between the two types of frames.

Taken together, this data suggests that AFFIL most frequently engaged collective action frames that called on consumers as victims of predatory lending to engage in political action for reform—the combination least likely to resonate with people's preexisting attitudes about consumer credit. And while a small subset of both the emails and blog posts appealing for political action attempted to justify that call with the deregulation framework, most did not, leaving consumers without a reason to take the requested action. Even consumer advocates acknowledged the potential shortcoming of AFFIL's approach. One admitted, "It didn't resonate with me. Personally, I always felt like [the victim frame] was kind of a threat, because you know the main retort was always that people just have to take personal responsibility, and I don't actually feel like we ever sufficiently addressed that question" (1120142 November 2014). Another conceded, "You know, 'I'm from the government, I'm here to help' doesn't ring true" (0312151 March 2015).

Did Preferences Affect Consumer Responses?

The preceding sections provide evidence consistent with the idea that AFFIL's struggles to mobilize consumers toward political action were obstructed, at least in part, by the organization's failure to generate resonant collective action frames. But the analysis of archival evidence is not sufficient on its own to show how consumers

reacted to those appeals. Do appeals that prime ideas of predatory lending and victimized consumers generate a willingness to engage in political action on credit problems? If not, to what extent do consumer opinions about personal responsibility influence the efficacy of those action appeals? I return to the 2015 Survey of Consumer Credit to explore this puzzle.

As part of the survey, respondents were asked to read a "message from a major consumer watchdog organization" depicted in Figure 4.8. The appeal, which was constructed largely from actual language used by AFFIL, describes the problem of overdraft fees and asks the reader to take action to support a proposed reform.

Figure 4.8: Sample Advocacy Appeal from 2015 Survey of Consumer Credit

HELP ELIMINATE COSTLY OVERDRAFT FEES!

If, like most Americans, you use checks, electronic transfers, or any type of bank card to make purchases directly from your checking account, you are probably subject to "overdraft fees" or "overdraft protection"—which are basically high cost loans in disguise.

Here's how overdraft loans work. Banks charge a fee—usually around $34—each time you make a purchase when your account balance is below zero. If you make several purchases, even if they are only for a few bucks here and there, you can end up paying multiple fees and hundreds of dollars in a single day! And here's the catch*: if you have "overdraft protection" you won't even be notified before you overdraw your account!*

A new proposal is being considered that would rein in banks' ability to charge these costly fees by:

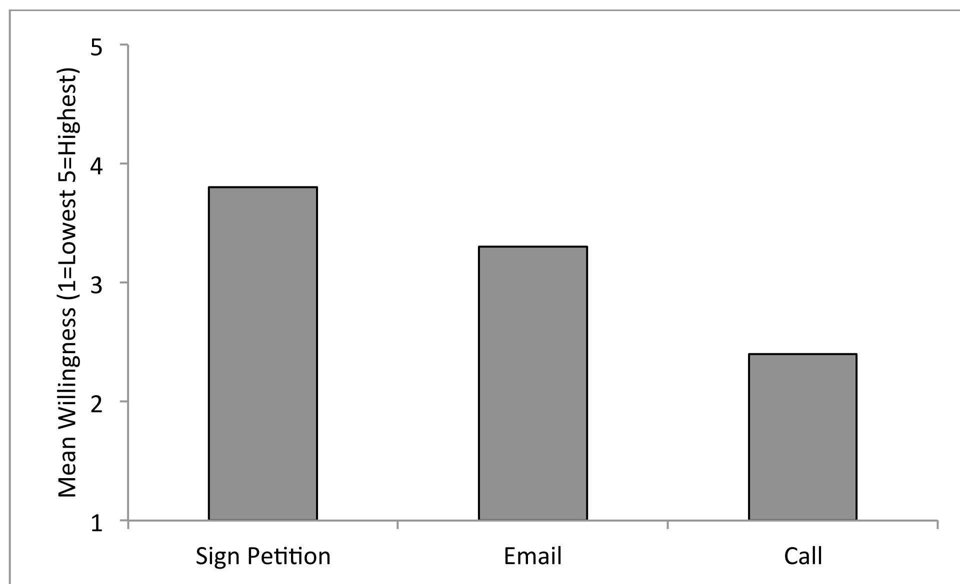
- requiring that you be notified at an ATM if you are about to overdraw your account
- limiting banks to only one overdraft fee per statement period (about one every month)
- requiring banks to make fees proportional to the cost of processing the overdraft—much less than $34 in most cases

Take action to show your support for this new proposal!

After reading the appeal, respondents were asked how willing they would be to take each of three actions to support the proposal: sign an electronic petition to Congress, email their member of Congress, or call their member of Congress. Responses were given on a scale from one to five, where one equals "very unlikely" and five equals "very likely." The mean answer for all respondents is presented in Figure 4.9. As the results show, the average respondent reported being somewhat

willing to sign an electronic petition, somewhat less likely to email their member of Congress, and unlikely to call that same member. In general, people expressed only a lukewarm response to the advocacy appeal, and, unsurprisingly, respondents became less willing to take political action as the actions themselves required more time and energy.

Figure 4.9: Mean Willingness to Engage in Each of the Requested Political Actions



Source: 2015 Survey of Consumer Credit

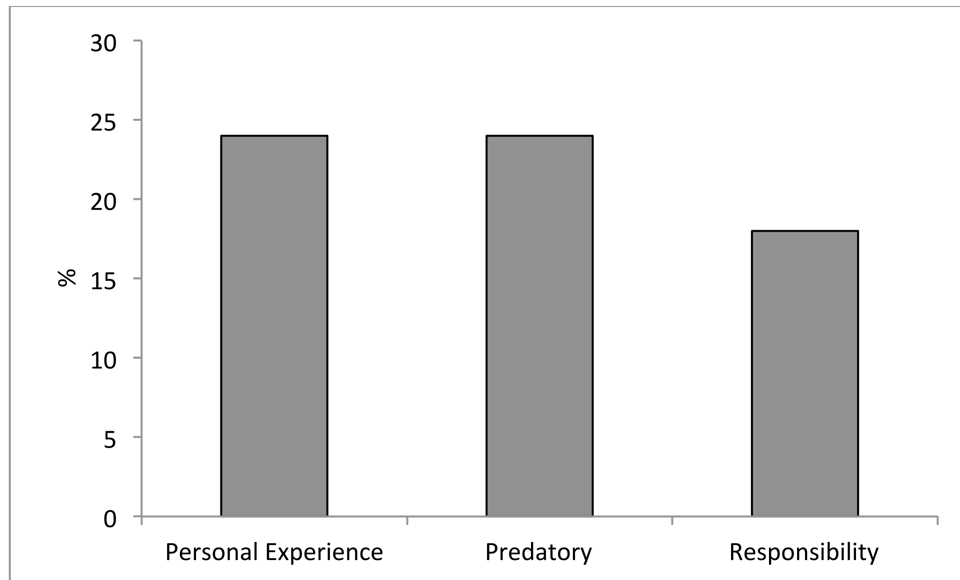
These results are interesting when considering that only two of the AFFIL appeals requesting political action asked their members to sign an electronic petition—the one survey item that generated a mean response of willingness to act. AFFIL's remaining political action appeals requested that members email, sometimes from an automated template, or call their legislator—actions that survey respondents were less likely to say they would take based on the advocacy appeal. The prospects for action in response to this type of advocacy appeal look even dimmer when considering that people typically over report their willingness to act on a survey.

While these results shed some light on the potential response to political appeals that prime victimhood and request political action, they do not help us to untangle how people's preferences actually shaped their response to the collective action frame. Immediately following the three questions that gauged the respondents' willingness to take political action based on the appeal, I included a retrospective probe to better capture the reasoning process behind people's responses. Scholars have used retrospective probes to uncover the specific considerations a person accounts for when responding to an opinion question (Hochschild 1981; Zaller and Feldman 1992). The probe, which allowed for an open-end response, asked people: "Still thinking about the previous questions you just answered, I'd like you to tell me what ideas came to mind as you were answering the questions. Exactly what things went through your mind?"

I conducted content analysis of the open-ended responses, coding them for the presence of three distinct types of reasoning. First, I created a dummy variable for each respondent where mentioning a personal experience with overdraft fees equaled one. I expect that people who have personally experienced the problem of overdraft fees would be more willing to take action to reform the particular lending practice. I created a second dummy variable where describing banks as predatory, abusive, or greedy equaled one. In accordance with the logic of consumer organizations, if a respondent embraced the frame of banks as preying on consumer victims, presumably that person should also be more willing to take action. Finally, I created a dummy variable where mentioning the personal responsibility of borrowers equaled one. I expect that people who are predisposed to think of credit problems as the fault of the

individual borrower will be much less receptive to an appeal to political action for lending reform.[58]

Figure 4.10: Percent of Respondents Mentioning Each Frame in Probe



Source: 2015 Survey of Consumer Credit

Figure 4.10 shows the distribution of each of these three frames for all survey respondents. About a quarter of respondents referenced a personal experience with overdraft fees. Not only is this a significant percent of the sample to have encountered the particular issue, but it is also consistent with the larger patterns of adverse credit experiences discussed in the previous chapter. A quarter of all respondents also described banks as predatory. Given that the action appeal itself primed the idea that banks are engaging in unscrupulous lending practices, this number is not surprising. Finally, just under a fifth of respondents (18 percent) referred to personal responsibility when explaining the thinking behind their willingness to engage in the requested political actions. While this means that a slightly smaller portion of

[58] Responses were not restricted to the presence of only one of these variables, although in practice the personal responsibility narrative rarely overlapped with the other two.

respondents drew on attitudes about personal responsibility compared to predatory lending, it is striking that the gap between the two is so small—only six percentage points—given that personal responsibility was the only one of the three coded responses not primed by the appeal. Put simply, nearly one fifth of all respondents referenced personal responsibility despite being told that banks were victimizing borrowers.

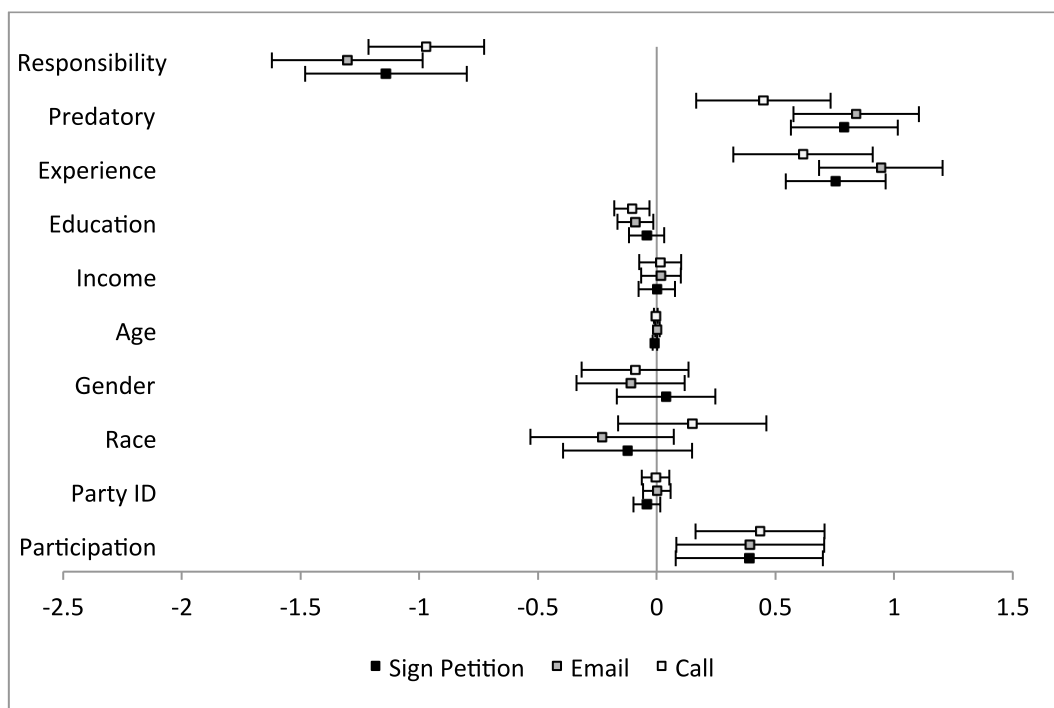
How did the presence of each of these three attitudes shape people's willingness to engage in political action to support reforming overdraft fees? I conducted statistical analysis of the survey responses to find out. The dependent variables were the respondents' willingness to take each of the three requested political actions to support overdraft reform: signing a petition to Congress, emailing their member of Congress, and calling their member of Congress. The primary independent variables were the preferences expressed by survey takers in their open-end responses. Specifically, I included the separate dummy variables for personal responsibility, predatory lending, and personal experiences with overdraft fees as described above.

I also controlled for several individual attributes that are believed to influence political participation, including education, income, age, gender, and race.[59] I also included a measure of whether people engaged in other forms of political activity. Respondents were asked whether in the last five years they had voted in an election (federal, state, or local), volunteered for a political cause, signed a petition, attended a political rally or protest, or contacted a government official. A dummy variable

[59] These variables are described in greater detail in the previous chapter.

captured whether the respondent answered yes to any of these activities. I expect that people who engage in other forms of political activity will also be more likely to say they were willing to take political action for this particular issue. Finally, I included a measure for party identification to account for partisan preferences that either encourage or discourage respondents from supporting the proposed legislation, thus influencing their decision to take hypothetical action.

Figure 4.11: Predicted Effect of Attitudes toward Credit on Willingness to Engage in Political Action



Notes: Results are coefficients from OLS regression where n=495 for both the "sign petition" and "email" models and n=492 for the "call" model. Bars represent 95% confidence intervals. Source: 2015 Survey of Consumer Credit

The results of this analysis are presented in Figure 4.11.[60] Each of the three attitudes expressed by respondents is predicted to affect their willingness to engage in political action in response to the advocacy appeal. As expected, those who thought

[60] The results are presented in table form in the Appendix. All variables are centered on the median response category for the following analysis.

about personal experiences or predatory banks expressed an increased willingness to take each of the three actions to support reforming overdraft loans.

For the median respondent, mentioning a personal experience with overdraft loans was predicted to increase their willingness to engage in each of the three political actions by two-thirds of a point (petition), three-quarters of a point (call), and a whole point (email). These are substantively significant effects given that the entire scale is only five points. As a comparison, thinking about a personal experience with overdraft loans produced a greater effect on a person's willingness to take one of the three political actions than did having participated in other forms of political activity. A similar pattern holds for respondents who thought about predatory lending practices while responding to the appeal. In fact, the predicted effect of thinking about predatory lending for the average respondent's willingness to take each of the three actions was comparable to having had an adverse personal experience with overdraft loans. These findings suggest that, when the predatory lending frame does resonate with someone reading an advocacy appeal, they may be somewhat more inclined to take political action.

The problem for consumer groups, however, is that thinking about personal responsibility is predicted to produce an even stronger reaction in the opposite direction. For the median respondent, mentioning personal responsibility—despite not being primed to think about it—was predicted to decrease their willingness to engage in each of the three political actions by anywhere between one and one and a half points on a five point scale. Given that the average respondent was already predisposed against engaging in AFFIL's two most requested types of action—

emailing and calling a government official—this result is ominous. It is further concerning in light of the fact that the focus group discussed earlier in the chapter, which was selected to mimic the target groups AFFIL was trying to reach with their advocacy appeals, seemed even more inclined to attribute credit problems to personal responsibility after viewing different types of appeals than did respondents to the 2015 Survey of Consumer Credit.

A Viable Alternative

From archival records to survey results, there is ample evidence to suggest that consumer interest groups like AFFIL were hamstrung in their attempts to mobilize consumers toward political action. They did not seem to find a viable way to bridge the gap between people's pre-existing preferences for a transactional approach to credit—reinforced by personalizing and privatizing experiences as borrowers—with calls for political action to protect victims of predatory lending. Could consumer advocates have done something, or do something in the future, to overcome the collective action framing problem? The 2006 focus groups AFFIL held to test potential messages suggested an answer to this problem: find a way to make people—at least temporarily—blame government for the plight of borrowers.

Scholars expect that people's policy preferences can be influenced by attempts to frame an issue in a particular way (Tversky and Kahneman 1981; Zaller 1992; Nelson, Clawson, and Oxley 1997; Sniderman and Theriault 2004; see Chong and Druckman 2007). Framing occurs when a particular subset of considerations is highlighted to lead a person to emphasize those specific considerations over others when constructing and reporting a preference (Gamson and Modigliani 1989; Entman

1993; Druckman 2004; Chong and Druckman 2007). While framing effects may be fleeting, for the purpose of consumer groups, even a short-term effect might incentivize people to make the immediate decision to take political action in response to an appeal. In the case of consumer finance, can reminding people that government is indeed responsible for the regulation of credit overcome their tendency to attribute blame to market actors—both borrowers and lenders—enough to drive them to political action?

I conducted an online survey experiment to explore this possibility. The experiment was administered in a survey of a national sample of 750 adult respondents through Amazon's Mechanical Turk from August 18-19, 2015.[61] Employing a between-subjects design, participants were randomly assigned to either a control or a treatment group. The sample size for each group is displayed in Table 4.1.

Table 4.1: Sample Size for Experimental Treatment Groups

	Control	Government Prime
n	151	151

Members of the control group were asked to read the same advocacy appeal depicted in Figure 4.8. Members of the treatment group received the appeal in Figure 4.12. The body of the appeal is identical to the control, but it includes a prominent prime reminding participants that government actors are responsible for regulating credit. The goal of this treatment is to see if simply reminding people of government's responsibility to protect borrowers is sufficient to increase their willingness to engage

[61] The descriptive statistics from this experimental sample compared to the 2012 ANES sample are available in the Appendix.

in political action. The survey experiment allowed me to isolate the effects of the frame on participants' reported responses to advocacy appeals requesting political action in support of reform for overdraft fees, thereby testing the causal effect of that frame (Iyengar 1990; Chong and Druckman 2007).

Figure 4.12: Experimental Treatment Appeal

HELP ELIMINATE COSTLY OVERDRAFT FEES!

Federal lawmakers are responsible for passing laws to protect consumers like you when you use financial services like banks and ATM cards.

If, like most Americans, you use checks, electronic transfers, or any type of bank card to make purchases directly from your checking account, you are probably subject to "overdraft fees" or "overdraft protection"—which are basically high cost loans in disguise.

Here's how overdraft loans work. Banks charge a fee—usually around $34—each time you make a purchase when your account balance is below zero. If you make several purchases, even if they are only for a few bucks here and there, you can end up paying multiple fees and hundreds of dollars in a single day! And here's the catch*: if you have "overdraft protection" you won't even be notified before you overdraw your account!*

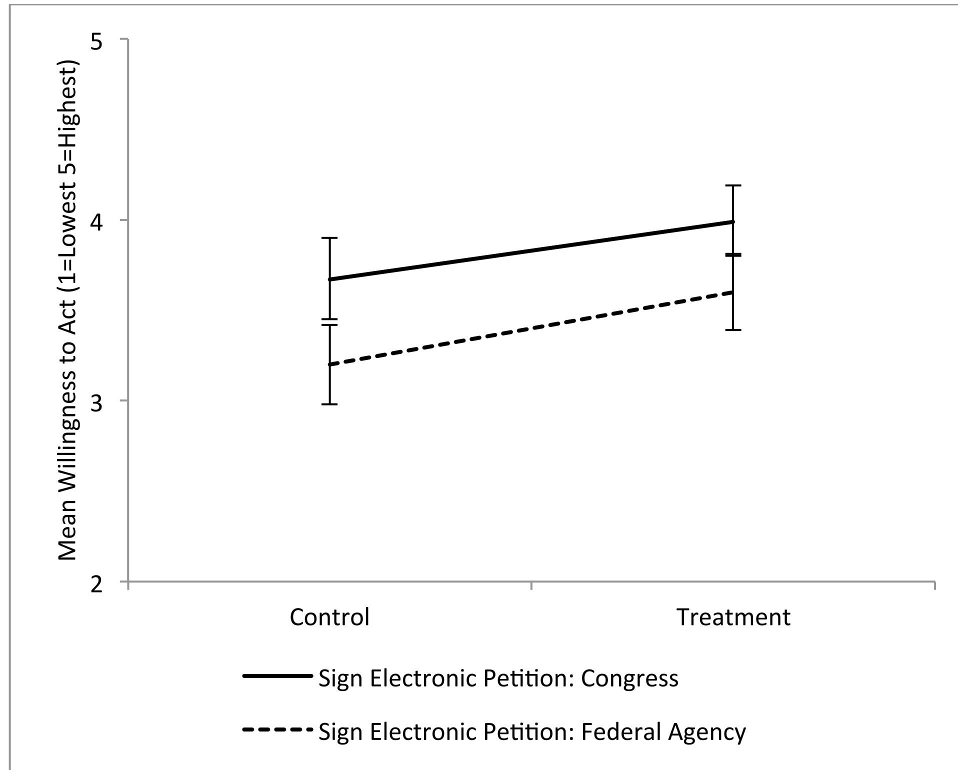
A new proposal is being considered that would rein in banks' ability to charge these costly fees by:

- requiring that you be notified at an ATM if you are about to overdraw your account
- limiting banks to only one overdraft fee per statement period (about one every month)
- requiring banks to make fees proportional to the cost of processing the overdraft—much less than $34 in most cases

Take action to show your support for this new proposal!

After reading their respective appeal, all participants were asked how willing they would be to sign an electronic petition to Congress, to a federal agency, and to the Better Business Bureau (BBB)—an industry non-profit—in support of a proposed reform. Once again, willingness to take each specified action was measured on a scale from one to five, with one equating to "very unlikely" and five equating to "very likely." Contacting the BBB was included to ensure that any effect produced by the treatment priming government's role in the regulation of credit was restricted only to political action, rather than producing a generic uptick in people's willingness to act. The results for the treatment—priming government's role in the regulation of credit to protect consumers—are presented in Figure 4.13.

Figure 4.13: Effect of Government Prime on Likelihood of Political Action



Source: 2015 Consumer Credit Survey Experiment

The figure depicts the difference in mean willingness to sign a petition to Congress and to a federal agency for the control and treatment groups. As expected, the treatment did produce a modest, statistically significant increase in participants' willingness to take both actions in response to the appeal. The treatment effect only appears for the two political actions; a significant difference in the willingness to contact the BBB did not emerge between the two groups. These results persist even when controlling for individual characteristics of the participants.

Table 4.2 presents the results of OLS regression, where the willingness to sign a petition for each of the two political actors serves as the dependent variable, and a dummy variable for receiving the experimental treatment serves as the primary independent variable. The regression also controls for the participants' highest level of

education, annual household income, gender, age, race, and party identification.[62]

Table 4.2: Predicted Effect of Prime on Likelihood of Political Action

	(1) Sign Petition to Congress	(2) Sign Petition to Federal Agency
Treatment (1=yes)	0.354 *	0.381 *
	(0.148)	(0.154)
Party ID	-0.155 *	-0.094 *
	(0.037)	(0.038)
Income	-0.031	-0.080
	(0.048)	(0.050)
Education	-0.059	-0.061
	(0.051)	(0.053)
Race (1=non-white)	0.023	0.067
	(0.073)	(0.078)
Gender (1=female)	-0.329 *	-0.277 *
	(0.150)	(0.156)
Age	-0.005	0.005
	(0.006)	(0.006)
Constant	4.008 *	3.064 *
	(0.303)	(0.314)
n	296	295
R^2	.09	.07

Notes: Figures in columns are OLS regression coefficients. Coefficient standard errors are in parentheses.
*p<.05

In both cases, receiving the government prime is predicted to increase the average participant's likelihood of taking the requested political action by about a third of a point on a five-point scale. The substantive effect is particularly important for signing a petition to a federal agency, where receiving the treatment moves the average participant from indecision closer to willingness to act. There are, of course, limitations to the extent to which these results should be generalized from the survey context to the real world. As mentioned earlier, people often over report their

[62] These variables are coded the same as their counterparts in the 2015 Survey of Consumer Credit. The coding is discussed in the previous chapter, and all variables are again centered on the median value.

willingness to take a hypothetical action. But there is no theoretical reason to believe that the tendency to over report is greater for members of the control versus the treatment groups in this experiment. These results, therefore, lend additional credence to the notion that reminding people that government is responsible for legislating on the issue of consumer credit protection might be sufficient to increase their likelihood of responding positively to an advocacy appeal for political action, even if those effects do not permanently reshape people's preferences.

The Importance of Political Mobilization

This chapter has explored the problems advocacy groups face when mobilizing consumers toward political action. While groups like AFFIL and AFR were occasionally able to engage the public in collective market action, the only significant examples of political action—comments submitted during passage of the CARD Act and targeted engagement during the debates over Dodd-Frank—were instigated by direct appeals for participation from political actors themselves. In such cases, the connection between credit and politics was made explicit to consumers by the very fact that it was a political actor asking for their engagement. When consumer organizations were responsible for doing the mobilizing, however, the chapter presents several types of evidence to suggest that they struggled in large part because they were unable to overcome a collective action framing problem. Organizations used frames that simply did not resonate with people's attitudes about who was to blame for problems with credit. The chapter also suggested a short-term fix to this problem—the use of explicit primes to remind consumers of government's role in the regulation of consumer finance.

But is it really necessary to mobilize consumers toward political action on credit issues? Even without hearing from their constituents in large numbers, federal policymakers have, after all, passed legislation when their hands have been forced. For elected officials like Barney Frank, Leonor Sullivan, and Wright Patman, the problem is not in getting a new regulation enacted; it is getting support for a bill that actually introduces meaningful reform. As Chapter Two makes clear, policymakers are constrained by the political economy of credit. Left to their own devices, they will continue to rely on information disclosures in order to maintain broad access to credit to support the consumer economy, even as those disclosures become less efficacious. Without pressure from voters themselves, supportive policymakers have not been able to convince their colleagues to embrace more meaningful reforms like the "vanilla" loan products proposed during debate over Dodd-Frank.

Advocates themselves lament the lost potential of failed attempts to mobilize consumers politically. As one former AFFIL staff member acknowledged, "[T]here's no other way we're going to have change. The inside-the-Beltway strategy is weak and small" (1120142 November 2014). Another leading consumer advocate described the tantalizing potential for collective political action by borrowers to change the game:

> "I think that currently, it is mostly a battle among the experts and a battle among the special interests. But, if the consumers were mobilized...I think they'd have immense influence and would be more powerful on the consumer side than what we have now. ...that would be so much more influential if you could rally the public." (1119141 November 2014)

The failure to mobilize consumers in support of lending reform has diminished the receptivity of lawmakers to public interest group lobbying efforts. But the

problems for consumer advocates have not ended with mobilizing consumers. As the next chapter will demonstrate, the political economy of credit also contributed to an administrative arrangement for consumer credit policies that stymies public interest group lobbying in the regulatory arena as well.

CHAPTER FIVE

Race to the Bottom: Regulatory Arbitrage and Public Interest Lobbying

While public interest groups have struggled to mobilize consumers politically, most acknowledge that their expertise provides them with a certain amount of influence when it comes to dealing with policymakers (1119141 November 2014). As the board members from Americans for Financial Reform (AFR) corroborated in the previous chapter, their congressional lobbying efforts helped to preserve important elements of financial reform during the legislative debate over Dodd-Frank. If expertise is indeed the primary currency with which public interest groups barter, we might expect their sway to be particularly noticeable in the regulatory arena, the policymaking venue where technocracy and expertise arguably carry the most influence. Yet, with respect to consumer credit, public interest groups have likened their battle to enact protections for borrowers to playing an exhausting game of Whack-a-mole (Mierzwinski 2010). For every minor concession they wring from regulators, enough loopholes remain that the financial industry has already found a way to circumvent the policy. The problem for public interest groups is further complicated because, as we saw in Chapter Three, citizens have been reluctant to share their concerns and adverse experiences with credit with federal regulatory agencies.

Why have advocacy groups struggled to lobby regulators in support of more stringent consumer credit protections, and why have citizens not been more willing to voice their problems to the regulators tasked with protecting them? Such a result could

plausibly be the product of a lax regulatory environment. The United States, however, has a far more rigorous regulatory framework than its European counterparts; yet, European bureaucrats generally take consumer protections more seriously than their American colleagues (Hilton 2007; Trumbull 2014). Despite the fact that Congress has granted powerful regulatory agencies the authority to make and enforce consumer financial protection rules, consumer protections have largely fallen between the cracks, even when advocates try to shine light on them (Levitin 2009).

Perhaps public interest lobbying efforts are hampered by regulatory capture. But, as scholars have noted when discussing the weak policy response to the financial crisis, "[P]olicymakers...often behave in ways that are not reducible to carrying water for Wall Street. ... The financial services industry is indeed powerful, but it does not always get what it wants. Moreover, the industry is competitive and not perfectly homogenous" (McCarty et al. 2013: 6). Plenty of recent evidence suggests that when public interest groups participate in the rulemaking process, their views do influence the policy outcome (Yackee 2006; McKay and Yackee 2009). Furthermore, public interest groups have experienced success in other arenas of consumer protection—for example, food and drug lobbying—despite facing equally powerful industries (Nadel 1971; Pertshuck1982).

In this chapter, I propose that untangling the puzzle of regulatory politics surrounding consumer financial protection requires a careful examination of the legacy of consumer credit policymaking in the United States. Chapter Two described the evolution of what I call a U.S. political economy of credit, whereby policymakers since the New Deal have enacted laws that created and support a consumption

economy fueled by widespread access to consumer credit. At the heart of this system is the idea that policymakers are primarily acting to support the stability of the national economy and not to promote the protection of individual consumers. The previous two chapters have explored how the design and implementation of the resulting consumer finance policies produced feedback effects that both shaped individual preferences regarding credit politics and limited the ability of advocacy groups to mobilize consumers politically. In this chapter, I argue that the administrative arrangement adopted by policymakers has had equally important effects for public interest lobbying and political engagement in the regulatory process.

Figure 5.1: Policy Tradeoffs in the U.S. Political Economy of Credit

Economic System	Form of Purchasing Power	Source of Credit	Consumer Confidence	Regulatory Implementation	**Administrative Arrangement**	**Administrative Mission**
Production vs. Consumption	Redisribution vs. Credit	Government vs. Private	Safety vs. Information	Government vs. Market	Centralized vs. Fragmented	Consumer Protection vs. Safety & Soundness

The growing volume of consumer credit legislation beginning in the late 1960s meant that policymakers had to decide who would have rulemaking and enforcement authority for the new laws. As Figure 5.1 illustrates, Congress had two important choices to make: 1) would they centralize authority in a single agency or fragment it across multiple agencies, and 2) what would the primary mission be for the agency(s) empowered to regulate consumer credit? Throughout this chapter, I draw on archival and legislative analyses to explain why Congress initially chose to distribute both rulemaking and enforcement authority across seven different agencies, most of which

were created to promote the safety and soundness of financial institutions and not that of individual consumers. The chapter then relies upon interviews with consumer advocates and evidence of consumer credit complaints to show how this so-called balkanization, or fragmentation, of regulatory authority for consumer credit products and services presented obstacles for both public interest lobbying and public engagement. Eventually, it explores how the creation of the CFPB has reshaped these dynamics by centralizing regulatory authority in an agency designed explicitly for consumer financial protection.

The implications of these choices and their political consequences are significant. For regulatory policies like those addressing consumer credit, much of the actual governing happens in the often-overlooked bureaucracy. As Kerwin and Furlong sum up, "Put simply, rulemaking has become the most common and instrumental form of lawmaking" (1992: 114). In light of this, the ability—or inability, as the case may be—of public interest groups and consumers to have their voices heard in the rulemaking process bears significant weight on the ultimate protection of consumers' financial interests.

Public Interest Group Power in the Regulatory Process

Interest groups and their constituents have a long history of involvement in the regulatory process. When the Administrative Procedures Act (APA) became law in 1946 (P.L. 79-404), it formalized the procedure by which administrative agencies could engage in rulemaking. According to the APA, an agency must issue a public notice when it is set to consider a new rule. The proposed rule must then be made available for public comment for a specified period. Finally, the agency must publish

the final rule along with a rationale explaining it. While the notice and comment period ensures that interest groups and members of the wider public can voice their opinions about a proposed rule, the reality is that many other openings exist for engagement with regulatory agencies. Interest groups can encourage bureaucrats to investigate new regulatory issues, and they are often consulted when new rules are being written. Agencies hold public field hearings that elicit participation from both interest group representatives and members of the public. And many agencies have procedures in place to collect feedback, often in the form of complaints, from those affected by a regulated industry.

Scholars have a number of theories to explain when different sets of political actors engage in regulatory politics, and perhaps more importantly, when those actors have the power to affect regulatory policy. William Gormley (1986) articulated perhaps the most developed theoretical explanation for who participates in regulatory politics. Gormley proposed that the varied participation of experts and ordinary citizens could be explained by the salience and complexity of the issue at hand. Citizens are most likely to participate in highly salient, relatively simple regulatory issues. By contrast, for high-complexity issues, citizens are expected to be absent from the regulatory arena, while experts take over. Unfortunately, when it comes to assigning regulatory issues to these categories, Gormley provides conflicting expectations for consumer financial protection.

He posits that consumer protection issues are exactly the low-complexity, high-salience topics that generate public engagement. On the other hand, Gormley expects financial regulation to be more complex, and thus experts will be the main

combatants (1986: 600). Given the importance of consumer credit to the everyday lives of most Americans, combined with the media coverage associated with the financial crisis, it seems reasonable to conclude that the regulation of consumer lending is a high-salience issue. But even advocates themselves differ on its level of complexity. As one advocate I spoke with noted, “Some of them are complicated. There’s probably thousands of pages of rules...a lot more law than there was before, and it’s complicated” (1120141 November 2014). While it is hard to argue that the specific details of consumer financial regulations—as with most forms of regulation—require expertise, another consumer advocate disagreed with the idea that the issue could not be presented in relatively simple terms for the broader public:

> “[T]his was something that everyone used to get very hung up on. Like, ‘this is a very complicated legal issue, how do we communicate this to the public?’ I think they really overstated that, because there are ways that it’s really very tangible. And everybody has a credit card, right?” (1120142 November 2014)

While Gormley’s theory fails to fully explain the dynamics of public engagement in the rulemaking process, existing scholarly accounts of the relative power of public interest groups in the regulatory arena create even more confusion. Public choice theorists have long argued that regulation is primarily created to benefit the regulated industry (Huntington 1952; Bernstein 1955; Stigler 1971). This so-called capture theory indicates that public interest groups will have very little power to, for example, affect the outcome of consumer credit regulation. Proponents of pluralist and associational approaches to bureaucratic politics, by contrast, embrace the idea that a much wider range of interests can influence regulatory policy outcomes (Peltzman 1976; Moe 1987; Lieberman 2007), a notion that has found support from recent

analyses of the rulemaking process (Yackee 2006; McKay and Yackee 2009). These scholars might expect to see consumer advocates win some significant battles for greater consumer credit protection.

While proponents of each of these theories can marshal evidence to support their respective approaches to regulatory politics, none provides a perfect fit for the case of consumer credit regulation. Industry giants would surely point to recent credit card regulations and the creation of the CFPB as credible evidence that they have not captured regulators on consumer credit protections. On the other hand, public interest groups can identify a string of issues for which regulators have either failed to act at all, or enacted protections that allow lenders to subvert them with ease, as evidence that their opinions are rarely given equal weight.

Regulatory Feedback Effects of Consumer Credit Administration

Again, I propose a policy-driven explanation for the current state of consumer credit politics in the regulatory arena. I argue that policies central to the political economy of credit have created obstacles for engagement in the rulemaking process by both public interest groups and citizens. While the previous two chapters focused primarily on regulatory feedback effects generated by credit policy design and implementation, this chapter argues that the administration of consumer financial regulations also influences credit politics in meaningful ways. I contend that the creation of a political economy of credit, which privileges national economic stability over the protection of individual consumers, affected how policymakers assigned administrative responsibility for regulating consumer credit in important ways.

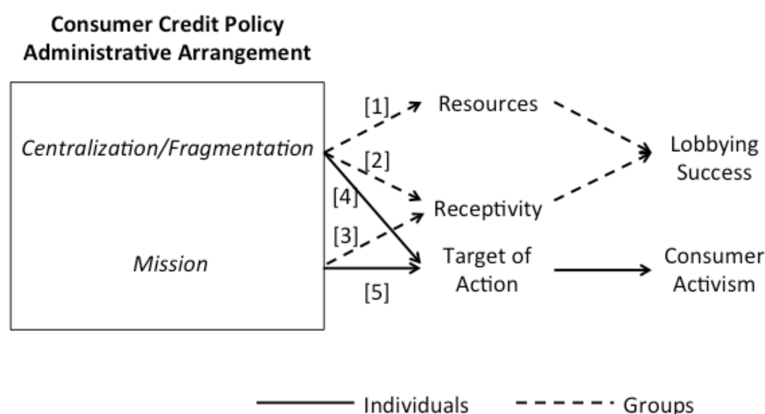
By the time the first significant regulation of consumer credit, the Truth in

Lending Act (TILA), was enacted in 1968, a number of regulatory agencies already existed to oversee different types of financial institutions and lenders. Policymakers, therefore, simply assigned authority for the myriad new credit regulations passed in the following decades to whichever of the seven preexisting agencies held responsibility for overseeing the financial institution that provided the regulated type of credit. As the main goal was to support national economic stability, I argue, Congress felt little need to centralize these regulations under a new agency designed with consumer protection in mind, even when the existing agencies themselves expressed reservations about their ability to effectively carry out their new duties. Unfortunately for consumers, the existing regulatory infrastructure was primarily tasked with ensuring the profit and stability of financial institutions—a so-called "safety and soundness" mission—and not the protection of consumers. Thus, regulators often lacked the expertise and resources to manage new consumer protection mandates. The result is that consumer credit policies were administered through a fragmented regulatory arrangement in which protecting consumers took a back seat to protecting the profits of financial institutions.

I argue that fragmenting regulatory authority for credit policies across agencies designed to protect banks instead of consumers produced regulatory feedback effects that shape the political participation of both public interest groups and ordinary citizens. For public interest groups, this administrative arrangement makes it difficult to engage regulators on issues of consumer protection with respect to credit issues. When regulators do turn their attention to protecting consumers, advocates' lobbying attempts are constrained by regulatory arbitrage—a so-called race to the bottom—

produced by fragmented rulemaking authority. For consumers, the lack of a centralized and easily identifiable government agency responsible for consumer credit protection has further inhibited political engagement with the regulatory process. Figure 5.2 illustrates the specific pathways (identified in Chapter One) along which the administrative arrangement has produced regulatory feedback effects, thereby shaping the regulatory lobbying capacity of public interest groups and the participation of consumers.

Figure 5.2: Regulatory Feedback Effects of Consumer Credit Administration



As Figure 5.2 depicts, the administrative arrangement of consumer credit policies has the ability to shape the lobbying success of public interest groups through three primary pathways. First, the degree to which rulemaking and enforcement authority for a policy is centralized in a single agency may affect both the application of interest group resources and the receptivity to advocates' policy proposals. With respect to resources [1], fragmented, or decentralized, regulatory authority increases the potential cost of lobbying because it must take place across multiple agencies. Rather than investing resources into developing relationships with regulators in a single agency, interest groups must establish and maintain connections across as many

agencies as have responsibility for either rulemaking or enforcing rules for a given policy. When a new issue comes to the fore, the degree of regulatory fragmentation determines how many agencies must be lobbied simultaneously. The costs associated with lobbying in a fragmented versus a centralized regulatory environment may be harder to bear for public interest groups, even those that are relatively well endowed, than for industry representatives.

Regulatory fragmentation may also shape how receptive regulators are to the reforms proposed by public interest groups [2]. The balkanization of regulatory power can incite what legal scholars refer to as "regulatory arbitrage," whereby regulated institutions—in this case financial entities—are able to play different agencies against one another in pursuit of the lowest level of regulation (see Levitin 2013; Carpenter 2014). In a fragmented system, arbitrage can take place for two related reasons. First, if multiple agencies are responsible for administering or enforcing the same rule to their respective clients, the agencies likely need to coalesce on the appropriate rule or enforcement strategy. This often leads to the lowest common denominator being adopted.

The incentive to engage in a so-called race to the bottom is further exacerbated in the case of financial regulation because of a loophole in the regulatory structure. Financial institutions have some flexibility to reclassify themselves (e.g., from a bank charter to a thrift charter) in order to come under the jurisdiction of their preferred regulatory authority (Carpenter 2014). As a result of the competition generated by regulatory fragmentation, agencies have incentives to protect their turf by adopting more favorable polices (Kirsch and Mayer 2013). For public interest groups, this

means that arbitrage may affect how receptive bureaucrats are to requests for more stringent consumer protection standards.

The primary mission of the administrative agency tasked with regulatory oversight for a consumer credit issue may also shape the degree to which regulators are receptive to advocacy demands [3]. Some agencies are designed to engage in safety and soundness, or prudential, regulation, meaning they are tasked with ensuring the stability and profitability of a particular industry. Other agencies are designed primarily to protect consumers, making them responsible for the interests of individuals even when those interests conflict with industry profitability. While the two tasks are not inherently at odds with one another, they can come into conflict (Schooner 2006). If one task is given to an agency designed to prioritize another goal, when a conflict does arise the agency will likely decide in favor of carrying out their primary mission. So, for example, if an agency focused on prudential regulation is given authority over consumer protection rulemaking, bureaucrats may have incentives to defer to the profitability of the financial institutions over the safety of consumers when deciding on the stringency of a particular regulation. From the perspective of a public interest group, this phenomenon may affect how receptive bureaucrats are to the consumer-oriented concerns of advocates.

Public interest groups are not the only actors whose politics might be shaped by the administrative environment for a particular policy. Ordinary citizens are affected as well. I contend that both the fragmentation of regulatory authority and the mission of the agencies responsible for administering a policy may affect citizen participation in the rulemaking process. First, as Figure 5.2 illustrates, the degree of

regulatory fragmentation in the administration of a policy may further illuminate or obfuscate government's role in that issue [4]. If a single administrative agency is granted oversight for a policy area, people may come to associate that agency with its respective policy jurisdiction. By contrast, when the regulatory oversight for a particular policy area is dispersed across multiple agencies, it may be far more complicated for citizens to identify the appropriate government body responsible for addressing their particular concern, thus diminishing their political participation. Even if citizens chose to turn to government to voice their complaints, a fragmented system may make it far more difficult for consumers to navigate the decentralized complaint or comment process.

Second, an agency's mission may influence the level of outreach bureaucrats engage in on a particular issue [5]. Agencies dedicated primarily to consumer protection may be more inclined to actively seek consumer feedback on an issue than an agency whose primary focus is industry profitability. Aggressively reaching out to consumers to contribute their stories and voice their policy preferences—for example, by promoting notice and comment periods through social media or hosting frequent field hearings—may generate more consumer participation in the rulemaking process.

I argue that, taken together, each of these feedback effects shapes consumer credit politics in the regulatory arena. But what specific arrangement emerged in the United States, and what influenced its development?

Administering Consumer Protection in a Political Economy of Credit

The United States is distinctive in the degree to which it relies on regulatory agencies as active sites of policymaking (Hilton 2007). Regulatory agencies began to

emerge at both the state and federal levels during the Progressive Era, increasingly replacing the courts as the primary arbiters for issues from industrial competition to health and safety (Glaeser and Shleifer 2001). The proliferation of regulatory agencies accelerated even more following the Great Depression as policymakers looked to experts to help remake the American economy (Prasad 2012). Agencies dedicated to overseeing the country's financial institutions represent some of the oldest and most significant regulatory commissions in the United States.[63]

The Office of the Comptroller of the Currency, created in 1863 as part of the Treasury Department, was one of the earliest regulatory commissions established to govern financial institutions. It is responsible for supervising federally chartered banks. The Federal Reserve System, consisting of twelve regional banks and a Board of Governors (FRB), was established by the Federal Reserve Act in 1913 (P.L. 63-43) during the Progressive Era. The FRB oversees several types of financial institutions, including U.S. branches of foreign banks and state chartered banks that are members of the reserve system. New Deal policies ushered in the next wave of financial regulators. To better support mortgage financing, the Federal Home Loan Bank Board originated in 1932 to oversee building and loan institutions (P.L. 72-304). It was replaced with two separate regulatory agencies in 1989 in the wake of the savings and loan crisis: the Office of Thrift Supervision[64], which was designed to oversee a variety of federally chartered savings associations, and the Federal Housing Finance Board, which maintained oversight for the Federal Home Loan Bank system (P.L. 101-73).

[63] Mark Jickling and Edward Murphy (2010) provide an excellent overview of the U.S. system of financial regulation in "Who Regulates Whom? An Overview of U.S. Financial Supervision."
[64] The Dodd-Frank Act abolished the Office of Thrift Supervision in 2011.

The Federal Deposit Insurance Corporation (FDIC) was another of the New Deal creations designed to stabilize the banking industry. Established as part of the Banking Act of 1933 (P.L. 73-66), the FDIC insures bank deposits and oversees the assets of failed banks. Finally, the National Credit Union Administration, which was initially part of the Farm Credit Administration, became an independent agency in 1970 with responsibility for both state and federal credit unions (P.L. 91-206).[65]

While each of these regulatory agencies was established with the explicit mission of promoting the safety and soundness of financial institutions and markets, the list of commissions created to protect consumer finances is much shorter.[66] In fact, until the birth of the Consumer Financial Protection Bureau (CFPB) in 2010, it was a list of one—the Federal Trade Commission (FTC); and even that agency had a much broader mission than simply protecting consumers' credit transactions. The FTC was created in 1914 (P.L. 63-203) with the dual mission of protecting consumers and promoting competition. It was established with enthusiastic support from progressive reformers and President Woodrow Wilson, who saw the FTC as a critical tool for trust busting (Hovenkamp 1999). Governed by a five-person board with broad authority to identify and regulate unfair and deceptive practices, the FTC is comprised of both a Bureau of Consumer Protection and a Bureau of Competition. As part of their activities, the FTC collects consumer complaints on a wide swath of products and

[65] There are, of course, other important financial regulatory agencies that, while not responsible for the safety and soundness of financial institutions, nevertheless are responsible for maintaining competition in the financial sector. These include the Securities and Exchange Commission (established via 1934 in P.L. 73-291) and the Commodity Futures Trading Commission (established in 1974 via P.L. 93-463).
[66] Beyond the area of finance, only three other regulatory agencies exist whose sole focus is on consumer protection: the Food and Drug Administration (established in 1906 via P.L. 59-384), the National Highway Traffic Safety Administration (established in 1970 via P.L. 91-605), and the Consumer Product Safety Commission (established in 1972 via P.L. 92-285734).

practices, of which consumer financial products and services represent a small part. Notably, the FTC does not publicly release its raw data on consumer complaints.

While the FTC was the first, and for a long time the only, agency officially empowered to protect consumers from unfair and deceptive practices, including financial practices, consumer representation in the federal government grew after President Roosevelt's administration turned their attention toward promoting consumption after the Great Depression. Most major New Deal policies—for example, the short-lived National Industrial Recovery Act—included provisions for consumer representation. Unfortunately for the average American, this token representation rarely amounted to real power over policy outcomes (Cohen 2003). The presence of these largely symbolic consumer advisory boards across several federal agencies eventually produced a perverse consequence for those who sought genuine consumer protection in the regulatory arena. It allowed opponents to assert that the creation of new bodies empowered to protect consumer interests beyond the capacity of the FTC was unnecessary. As Esther Peterson, President Johnson's Special Assistant for Consumer Affairs, explained in her remarks to the 1967 Consumer Assembly:

> "To listen to some, the government already does far too much for the consumer. These critics are fond of citing a 1961 House Committee Report that listed 33 Federal agencies as working in the consumer interest with a total appropriation of nearly $1 billion. These critics fail to realize that the consumer interest is often incidental to the producer interest which is the principal concern of many of these agencies." (Peterson 1967)

This attitude eventually doomed the battle to create a cabinet-level consumer protection agency during the 1970s—a failure often pointed to as the watershed moment in the development of a powerful business lobby in Washington (Pertschuk

1982). But for advocates of consumer financial regulation in the 1960s and beyond, the lack of support for broader consumer protection combined with the treatment of consumer interests as secondary to maintaining a stable political economy of credit had more immediate consequences.

When TILA was enacted in 1968, oversight for the first-of-its-kind regulations had to be assigned to a regulatory agency. The FTC was the only existing commission dedicated, at least in part, to consumer protection. But in a sign that policymakers viewed the consumer protection aspect of TILA as only a byproduct of the more important goal of maintaining stable credit markets, the FTC did not receive primary oversight for the new law. Neither was a new regulatory commission created to administer what was sure to be a growing body of policy. Instead, rulemaking and enforcement authority for the new disclosure provisions were proposed to go to the FRB—an agency designed solely to oversee the safety and soundness of banks.

In hearings for the bill, however, James L. Robertson, Vice Chairman of the FRB, expressed his concerns with the proposed administrative arrangement despite the agency's overall support for the Act. Robertson explained that the Board was not well suited to promulgating rules for the new law, though he acquiesced that they would be willing to take up the job for what he hoped would be a short period:

> "Formulating regulations under this bill would involve the Board in time-consuming consideration of trade practices about which we have very little knowledge... we will do our best to carry out the assignment, but we hope that in time...administration of Federal disclosure requirements will be reassigned to an agency better suited to perform the function." (Truth in Lending 1967: 668)

But Robertson was even more explicit in his objection to assigning

enforcement authority for the new provisions to the FRB:

> "The task of implementing this proposed law will be complicated not only by our lack of knowledge in this field, but also by the fact that the Board has no trained investigative staff. ... Consequently, we would hope that our only function under this legislation would be to prescribe regulations. ... We also hope that Congress will express its desire that all Federal agencies endeavor to secure compliance with the law by lenders and sellers subject to their jurisdiction." (Truth in Lending 1967: 668)

The bill eventually adopted Robertson's solution. The authority to propose rules to implement the new law was given to the FRB, despite their lack of expertise in the area, while the power to enforce compliance with the law was fragmented amongst the existing agencies responsible for overseeing different types of financial institutions. But these other financial regulators were similarly ill-suited to the task. Like the FRB, their primary missions were to protect the safety and soundness of financial institutions, not to protect consumers. They had neither the expertise nor the incentive to put consumer protection at the fore of their activities.

The Challenging Administrative Environment

Agencies' concerns over their ability to carry out these new consumer credit protections did not prevent Congress from relying on the same administrative strategy in subsequent legislative efforts. The Consumer Credit Policy Dataset systematically captures the administrative arrangement of consumer credit policies over time in the United States.

First, I gauge the degree of regulatory fragmentation for consumer credit policies by exploring the assignation of rulemaking and enforcement authority for a particular credit policy. I operationalize this relationship with a dummy variable that codes whether rulemaking and enforcement authority for a particular policy is

assigned to a single agency (yes equals one). I then look to the stated missions of each regulator to determine whether the agency responsible for rulemaking and enforcement respectively for a particular policy has a primary mission for consumer protection. This is also coded as a dummy variable, where the presence of a consumer protection mission equals one.

Table 5.1: Consumer Credit Policy Administrative Attributes, 1934-2010

Year	Policy	Rulemaking Authority	Enforcement Authority
1934	National Housing Act (Title I)	FHA	FHA
1968	Consumer Credit Protection Act	FRB	Multiple Agencies
1968	Truth in Lending Act	FRB	Multiple Agencies
1970	Fair Credit Reporting Act	Multiple Agencies	FTC
1970	Provisions Relating to Credit Cards (Title V)	FTC	FTC
1974	Equal Credit Opportunity Act	FRB	Multiple Agencies
1974	Fair Credit Billing Act	FRB	Multiple Agencies
1976	Truth in Leasing Act	FRB	Multiple Agencies
1977	Fair Debt Collection Practices Act	FTC	FTC
1978	Electronic Funds Transfers	FRB	Multiple Agencies
1980	Truth in Lending Simplification and Reform Act	FRB	Multiple Agencies
1988	Fair Credit and Charge Cards Disclosure Act	FRB	Multiple Agencies
1988	Home Equity Loan Consumer Protection Act	FRB	Multiple Agencies
1991	Truth in Savings Act	FRB	Multiple Agencies
1996	Omnibus Consolidated Appropriations Act	FRB	Multiple Agencies
1996	Consumer Credit Reporting Reform Act	Multiple Agencies	FTC
1996	Credit Repair Organizations Act	FTC	FTC
2003	Fair and Accurate Credit Transactions Act	FTC/FRB	FTC
2006	Military Lending Act	DOD	Multiple Agencies
2009	Credit Card Accountability Responsibility and Disclosure Act	FRB	Multiple Agencies
2010	Consumer Financial Protection Act of 2010	CFPB	Multiple Agencies
2010	Improving Access to Mainstream Financial Institutions Act	DOT	n/a

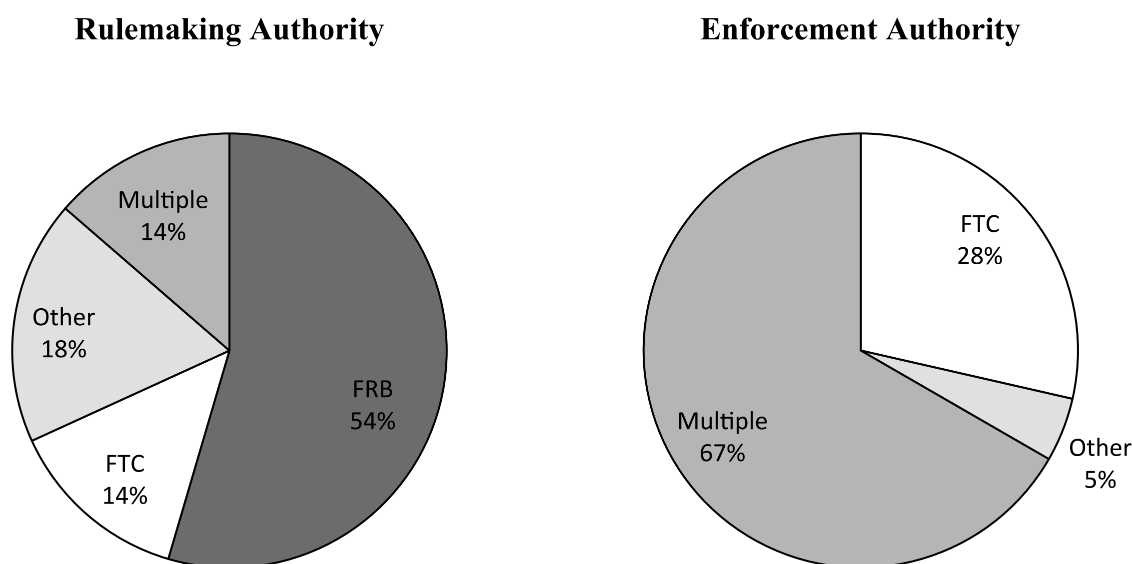
FHA- Federal Housing Administration, FRB- Federal Reserve Board, FTC- Federal Trade Commission, DOD- Department of Defense, CFPB- Consumer Financial Protection Bureau, DOT- Department of Treasury

In combination, these two measures provide a comprehensive picture of the regulatory environment for consumer credit. They are detailed in Table 5.1.

Fragmenting Regulatory Authority

The analysis of consumer credit policy administrative arrangements shows that rulemaking and enforcement authority are, indeed, fragmented to a significant degree. In fact, only four policies assign both rulemaking and enforcement authority to the same agency: Title I of the National Housing Act, Title V of the Fair Credit Reporting Act, The Fair Debt Collection Practices Act, and the Credit Repair Organizations Act. By contrast, sixteen policies divide rulemaking and enforcement authority across more than two agencies. Not only is the administration of consumer credit regulation fragmented within individual policies, it is also fragmented across policies.

Figure 5.3: Administrative Authority for Consumer Credit Policies, 1934-2010



As Figure 5.3 shows, the ability to promulgate rules for consumer credit

regulations is distributed across multiple agencies, although a small majority of laws (54 percent) designate the job of rulemaking primarily to the FRB—the same agency that did not want the responsibility when it was first assigned in 1968.

Enforcement authority is even more fragmented. More than two out of every three policies (67 percent) divide enforcement authority among multiple regulatory agencies. In most of these cases, up to seven agencies are implicated in managing compliance for the specified policy—each responsible for enforcing regulations for credit originated by the financial institution they oversee. The FTC is given enforcement authority for just under a third of all policies (28 percent). But even the FTC was not quite sure how to carry out their task in the beginning. In a letter to Kansas State Professor of Family Economics William Fasse, Sheldon Feldman, the Assistant Director for Consumer Credit and Special Programs in the FTC's Bureau of Consumer Protection, wrote to request assistance:

> "The Division of Consumer Credit and Special Programs...are responsible for enforcing the Truth In Lending, Fair Credit Reporting and Fair Packaging and Labeling Acts. ... My personal view is that we need much more input from those who are in a position to identify the most pressing areas of unchartered regulatory effort." (Feldman undated)

Widespread regulatory fragmentation—both across and within policies—presented a number of problems for bureaucrats. During June 2007 hearings about the financial crisis held before the House Financial Services Committee, Sheila Bair, the Republican-appointed Chairperson of the FDIC, explained to lawmakers, "The greatest weakness in today's financial marketplace is the absence of clear consumer protection standards applied uniformly to all participants in the market" (Improving Federal Consumer Protection 2007: 16). She specifically referenced the problems

created by dividing rulemaking and enforcement authority across different agencies with respect to unfair and deceptive acts and practices (UDAP) regulations:

> "Well, we enforce UDAP, but we don't have the ability to write rules. And so because there are no rules, we are finding out we have to use case-by-case determinations and consult a great deal with the Fed and the FTC about what is unfair or deceptive because we don't have the ability to define these terms." (Improving Federal Consumer Protection 2007: 27)

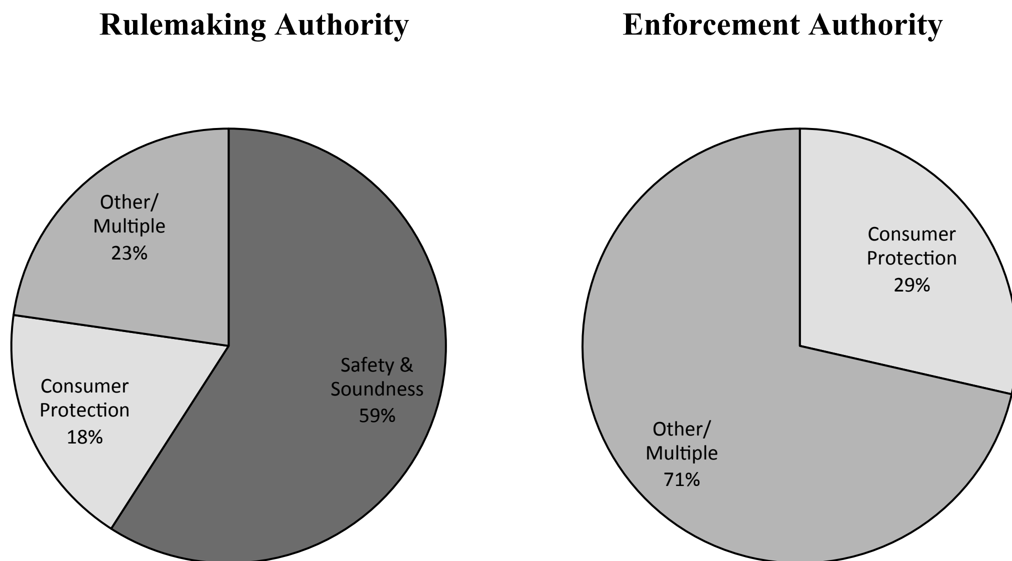
Beyond the ability to enact rules, regulatory fragmentation threw up another obstacle as well: it made the consumer complaint process incredibly complicated. A presumably unintended consequence of regulatory fragmentation was the lack of a unified complaint system for consumers to turn to when they sought redress. Complaint-handling institutions in the realm of consumer finance have been found by consumers to be either inadequate or obscured (Best 1981). Representative Dennis Moore (D-KS) noted this problem during congressional hearings, reporting, "I looked at some of the websites, and it is very, very confusing and takes several clicks sometimes to get to a complaint form or a toll-free number" (Improving Federal Consumer Protection 2007: 25). Agency representatives acknowledged his assessment, responding that it was a difficult challenge to overcome in the existing regulatory environment.

Protecting Consumers or Protecting Banks

The balkanization of rulemaking and enforcement authority for consumer credit policies is only half of the story. As Figure 5.4 shows, very few consumer credit policies are administered by agencies created with the primary mission of protecting consumers. Fewer than one in five policies (18 percent) assigned rulemaking authority to an agency with a primary mission of consumer protection, and only 29 percent

authorized enforcement by an agency dedicated to consumer protection. By contrast, about two thirds of consumer credit laws (59 percent) are implemented by agencies designed to promote the safety and soundness of banks with an eye toward maintaining economic stability.

Figure 5.4: Agency Mission for Consumer Credit Regulators, 1934-2010



For example, the Federal Reserve Board reports a major part of its mission as "maintaining the stability of the financial system and containing systemic risk that may arise in financial markets." And as Representative Frank wryly noted upon reviewing subprime mortgage rules proposed by the FRB at the outset of the crisis, "We now have confirmation of two facts we have known for some time: one, the Federal Reserve System is not a strong advocate for consumers, and two, there is no Santa Clause. People who are surprised by the one are presumably surprised by the other" (Wall Street Journal 2007).

Legal scholar Adam Levitin explains that the regulatory arrangement for

consumer finance "made consumer protection an orphan mission that tended to 'fall between the cracks' because no agency had an exclusive role of consumer protection in financial services" (2013: 40). FDIC Chairperson Bair provides further evidence of this problem. When asked about her opinion on a number of potentially predatory lending products during congressional hearings, Bair responded "I think those practices are highly troubling, but even assuming we thought they were unfair or deceptive, we would not have the ability to write a rule making that determination, whereas we can write rules on safety and soundness" (Improving Federal Consumer Protection 2007: 29).

The combination of fragmenting regulatory authority for credit policies across agencies whose primary missions were promoting the safety and soundness of banks contributed to another phenomenon that decreased the protection of consumers: regulatory arbitrage. As explained earlier, because lenders have some flexibility to change their charters to come under the authority of the friendliest regulator, financial regulatory agencies have incentives to protect their turf by minimizing regulations. Even those bureaucrats who are inclined toward greater consumer protection are constrained by this competition. The following exchange between Chairperson Bair and Representative Frank illustrates the problem of regulatory arbitrage in stark terms:

> Bair: "[S]ince we only have 15 percent of the credit card market, even if we could find authority under safety and soundness to write a rule, we would be imposing that rule only on FDIC-supervised credit card issuers…"
>
> Frank: "And you would pretty soon have 1.5 percent of the market and not 15 percent if you had a rule and [the other agencies] did not." (Improving Federal Consumer Protection 2007: 28)

Comptroller John Dugan, from the Office of the Comptroller of the Currency,

echoed this line of thinking:

> "I would just add that I agree with that. For many years it was not clear that banking agencies could even take enforcement action under [UDAP]. ... We do think it would be helpful to have rule-writing authority. ... Our concern is that if one agency adopts a rule, people could use other charters to do the same activity…" (Improving Federal Consumer Protection 2007: 28)

The result of this scheme for administering credit regulations was that agencies whose primary focus was on bank profitability passed relatively weak consumer protection rules that were then enforced by other agencies with incentives not to unduly anger their constituent banks. Instead of strong rules with active enforcement, consumer protection issues, when dealt with at all, were addressed "informally and confidentially" during other investigatory processes (Carpenter 2014).

It ultimately took fifty years after the enactment of TILA and a massive financial crisis before Vice Chairman Robertson's plea to relocate authority for consumer credit protection rulemaking to an agency designed specifically for that purpose was realized. The Financial Crisis Inquiry Report concluded that, "widespread failures in financial regulation and supervision proved devastating to the stability of the nation's financial markets" (Financial Crisis Inquiry Commission 2011: xviii). In a 2010 Wall Street Journal editorial analyzing the crisis, Elizabeth Warren accused federal regulators of "play[ing] the role of lookout at a bank robbery." Even with this analysis, support for the creation of a new agency vested with protecting consumers' finances was reliant in part on the ability of supporters to explicitly tie consumer protection to national economic stability. Senator Richard Shelby (R-AL), for example, commented to the *New York Times* in 2010, "I fully support enhancing both consumer protection and safety and soundness regulation [but] I will not support a bill

that enhances one at the expense of the other" (Chan 2010).

In hindsight, of course, it seems obvious that the proliferation of risky loan products and the subsequent inability of consumers to repay their debts would have tremendous consequences for the continued profitability of lenders and the wider stability of the financial system. But prior to the recession, regulators were more concerned with the relationship between profitability and stability (Carpenter 2014)—and predatory loans, while risky, were certainly profitable for many institutions. Regulators like Sheila Bair eventually made the connection between the two missions explicit, noting, "Activities that are harmful to consumers also can raise safety and soundness concerns" (Bair 2007). After a difficult fight, as detailed in Chapter Two, the CFPB was ultimately created in 2010 in an attempt to combine much of the rulemaking and enforcement authority for credit regulations under a single agency dedicated to protecting consumers (P.L. 111-203).

How Administrative Arrangements Shape Public Interest Lobbying

In this chapter, I propose that the nature of the administrative environment limited the ability of public interest groups to lobby regulators for more stringent consumer credit protections in the decades prior to the financial crisis. Specifically, I argue that the fragmentation of rulemaking and enforcement authority placed resource constraints on consumer advocates, restricting their lobbying capacity. Furthermore, regulatory arbitrage—the result of fragmenting authority across agencies tasked with safety and soundness missions—limited the receptivity of bureaucrats to consumer advocates' proposed reforms.

I rely on interviews with consumer advocates from four of the most active

consumer credit lobbying groups to explore these two phenomena.[67] Advocates spoke about their experiences with the rulemaking process both before and after the creation of the CFPB in 2010. Because the CFPB dramatically altered the administrative environment for consumer credit regulation, centralizing much of the rulemaking and enforcement power in an agency dedicated to consumer protection, I can untangle how the specific features of the regulatory structure shaped public interest lobbying on credit issues.

Resources for Lobbying

Did the fragmentation of rulemaking and enforcement authority—which required building and maintaining relationships across multiple fronts—inhibit public interest lobbying? The evidence from advocates is mixed. As one acknowledged, "For the most part, these groups had limited resources, so it's not like they're going to three or four agencies" (0312151 March 2015). A senior staff member from a different organization agreed with this assessment, explaining that, "The biggest limit for us is resources and how much we can do" (1119141 November 2014). But that person ultimately noted, "open doors are not really a problem for us." Another advocate heavily involved in regulatory lobbying suggested that resources were not a severe problem because, for many credit issues, they could be concentrated toward the FRB at the rulemaking stage (0313151 March 2015). While fragmentation may not have seriously constrained consumer interest groups' abilities to get access to the people they needed to, every single advocate I spoke with was in agreement about one

[67] In theory, looking at lobbying expenditures would provide a more quantifiable method to address the resources question, but many consumer advocates are not actually forced to register as lobbyists, so it is impossible to get an accurate picture from lobbying disclosures.

thing—access was only half the battle.

Receptivity to Proposals

The real struggle came with getting regulators to take their proposals seriously. As one advocate summed up, “What matters is their willingness to do something about the issues that you’re calling attention to” (0312151 March 2015). Another advocate agreed, explaining what public interest groups faced once they got in the door:

> “[O]nce it’s out there, it really just depends on who the partner is in the policymaking position. ... [S]ometimes it falls on receptive ears and it’s up to us to push it, or push it further. But sometimes we need to knock on doors and make sure people are hearing it. ... Whether the issues are something people want to take on, that’s a whole other question.” (1119141 November 2014)

Advocates were in agreement that prior to the CFPB, receptivity was a serious obstacle to effective lobbying. And they attributed the problem explicitly to the interaction of two structural factors of the administrative environment: fragmentation and the investiture of authority in agencies without a consumer protection mission. One advocate explained how the lack of focus on consumer protection affected agency behavior from the outset, inhibiting the identification of products and services that needed to be addressed through rulemaking:

> “[The structure] meant that it was often hard to identify problems because there was nobody whose job it was, whose primary function it was, it was on them, to look at business practices in consumer welfare. It was a secondary issue behind safety and soundness for virtually all of the banking lenders.” (0312151 March 2015)

Even after a problem had been identified, the agencies’ safety and soundness missions inhibited their ability to enact necessary consumer protections. As another advocate explained:

> “For the most part, what the other agencies had was a secondary focus on the

> issues we're concerned with. Their primary focus was not consumer protection, and their primary focus was the health of the industry that they're regulating, and that often can be articulated in a way that there are contrary interests. If you eliminate this bad product, of course it has an effect on financial welfare of the industry. That's a structural difference that's really important." (1119141 November 2014)

Representatives of consumer interest groups agreed that the problem of mission mismatch combined with regulatory fragmentation to produce arbitrage, which made it incredibly challenging to get regulators to be receptive to proposals for more stringent reform. One advocate described how arbitrage shaped the process of lobbying for stronger consumer credit protections:

> "[T]he structure here, in main part, tended to make it harder for the agencies to mobilize on that problem even when they wanted to address it... [I]t took years for all the regulatory agencies [to] align behind an approach, and then the least common denominator situation meant that when they did mobilize behind it, it was pretty weak." (0312151 March 2015)

Another expanded on the problem of arbitrage:

> "The agencies would compete for members, whether you're a bank, you're a state bank or a federal bank. You can switch, so it was very difficult to get uniform. First, they weren't inclined to be aggressive, and second, they couldn't be consistent. And even if they wanted to act together, it's like getting five agencies together – that's very difficult to do." (1119141 November 2014)

The experiences of consumer advocates provide strong evidence to support the argument that the administrative environment for consumer credit policies produced feedback effects that inhibited their lobbying efforts. That argument is made even stronger when contrasting these accounts with advocates' descriptions of their participation in the rulemaking process after the creation of the CFPB, which centralized a significant amount of the rulemaking and enforcement authority for consumer lending in the capable hands of an organization dedicated to protecting

consumers. One advocate, who had been busy completing comments in response to several hundred pages of new regulations prior to our meeting, confirmed that working with the new agency was a whole different ballgame (0313151 March 2015).

Getting rid of the incentive for regulatory arbitrage was a key factor in opening the doors to more receptive regulators. As one advocate concluded:

> "For us, the most important was the [CFPB's] broad rulemaking authority, and its broad enforcement authority, and its independence and independent financing. All that was the key. ... That's very different than what the other agencies had. ... It is true that having this blanket ability to deal with the issues in their area is unique, because before, one agency could act but the other agencies wouldn't, and you'd have inconsistent rules. Now, it's all in one." (1119141 November 2014)

Another agreed, summing up the difference succinctly: "Primary focus and market-wide coverage. So no gaps. No potential for regulatory arbitrage" (0312151 March 2015). Not only did the new administrative arrangement eliminate many of the incentives to engage in arbitrage, but the CFPB also expanded oversight beyond the scope of the lenders overseen by existing financial regulators. One advocate described the expansion of regulatory reach as "totally new, totally fresh, and rather eye-popping" (1119141 November 2014). This advocate went on to underscore the ultimate result for public interest lobbyists: "In terms of the history of the [organization], I think this is the most influential we've ever been, since the 70s. I think it's halcyon days for our staff in that regard. They feel they're really accomplishing things."

How Administrative Arrangements Shape Citizen Engagement

The deleterious effect of the original administrative arrangement for consumer credit regulation on public interest lobbying is clear, as is the turnaround produced by

the creation of the CFPB. But what about citizen engagement in the regulatory process? This chapter theorizes that the same features that led to regulatory arbitrage—fragmentation of authority across agencies dedicated to protecting banks instead of consumers—also limited citizen participation in the regulatory arena. First, by fragmenting regulatory authority across a number of agencies, it may be difficult for citizens to identify which, if any, federal agency is working on their behalf on a particular credit issue. From a theoretical perspective, this has the potential to further diminish consumers' beliefs that government is responsible for credit regulation. From an instrumental perspective, fragmentation might make it hard for a consumer to navigate the system of complaints and comments even if they do want to participate. Finally, giving responsibility for consumer protection to agencies whose focus and expertise are oriented toward protecting banks may diminish agency outreach to consumers, taking away an important political mobilizing agent. Evidence collected from archival material and advocacy interviews is consistent with this explanation.

In 1969, the National Consumer Law Center (NCLC) administered a survey to legal aid offices around the country. Several of the questions were designed to see whether attorneys or their consumers were filing credit complaints to the FTC under the new TILA provisions. Nine of every ten responding offices (90 percent) said that they did not believe the FTC had been active with respect to consumer protection in their state, so it should be no surprise that very few said they had ever filed, or even considered filing, a consumer complaint on behalf of one of their clients (NCLC 1969). A decade of enforcing consumer credit protections did nothing to change this pattern. As Chapter Three discussed, virtually no respondents to the FRB's 1977

Survey of Consumer Finance said they contacted a federal agency to make a complaint about consumer credit problems. An analysis of the results noted, "It is particularly interesting that not one consumer contacted an existing Federal regulatory agency. This fact may indicate…a lack of familiarity…" (Board of Governors 1977: 29).

This analysis is consistent with the idea that the fragmentation of regulatory authority, which resulted in fragmented consumer complaint systems, made it challenging for consumers to identify or to utilize those systems. Even more support for this conclusion is generated by a strange anomaly in consumer responses to the 1977 survey. While one percent of respondents reported contacting a federal agency, analysts found that the few people who reported submitting comments sent them to agencies that did not actually exist (Board of Governors 1977). Today, of course, most financial regulators accept complaints via phone or online complaint forms, potentially easing the submission process. Although, as Representative Moore found, even the advent of the Internet was not sufficient to streamline the complaint process in the fragmented environment.

Consumer advocates I spoke with argued that the introduction of the CFPB consumer complaint system represented a game changer for consumers' ability and incentive to voice their credit issues to government. As one veteran of the consumer movement explained:

> "[O]ne of the huge changes is the CFPB complaint database. It's so much more accessible, I think, to consumers. It's responsive, gives them an incentive because it requires a response from the [company]...supposedly they do respond, so that's a whole new level of power for consumers." (1120141 November 2014)

The complaint process was initiated in 2011. It began with credit card

complaints, and the CFPB has added new complaint categories over time: mortgages in December 2011; bank accounts and services, private student loans, and other consumer loans in March 2012; credit reporting in October 2012; money transfers in April 2013; debt collection in July 2013; payday loans in November 2013; prepaid cards, credit repair, debt settlement, pawn and title loans in July 2014; and virtual currency in August 2014. As of March 2016, the CFPB had taken in 834,000 consumer credit complaints (CFPB 2016). The CFPB accepts complaints directly from consumers online or via telephone, mail, email, or fax. Once submitted, the complaint is routed to the appropriate lender or company after staff review. Company responses are provided to consumers. This ability to instigate company action is one of the strong suits of the new system. As one advocate marveled:

> "[T]here was a newspaper article talking about somebody [who] complained about overdraft fees with their bank [and] sent a complaint to the CFPB. After complaining and complaining to the bank that they were being mistreated, [they] did not get any response until they filed a [CFPB] complaint, then got a call the next day from somebody at the level of the bank that they could make a change, and they made a change. I suspect that doesn't happen at every bank, but it happens at some, and that's an incredible difference." (1120141 November 2014)

Of the complaints handled in 2015, two-thirds were forwarded to companies. About 22 percent of all complaints submitted to the CFPB fell under the jurisdiction of another agency, and were forwarded to the appropriate regulator.[68] The remaining fifteen percent were incomplete and returned to the consumer for more information. Companies responded to an astounding 95 percent of the complaints sent to them via

[68] The fact that so many complaints were erroneously submitted to the CFPB could mean that the remaining regulatory fragmentation is still confusing to consumers; however, it may also be a sign that ordinary Americans are already coming to identify the CFPB as a government actor looking out for their interests.

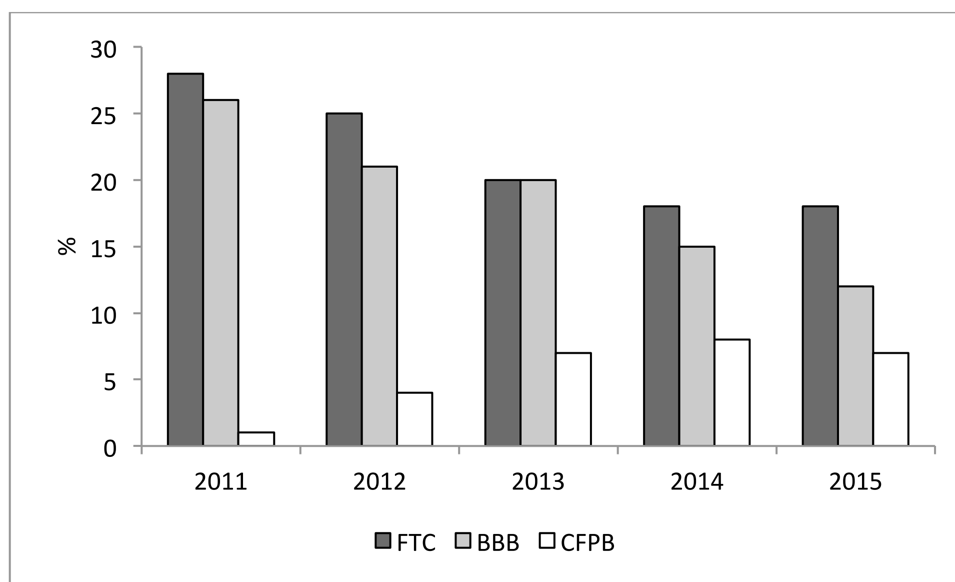
the CFPB in 2015. Of those cases, just under three-quarters (72 percent) were closed with an explanation from the company. Nearly one of every five was closed with some form of relief to the consumer (18 percent). About 20 percent of consumers chose to further dispute the response they received, a process that is also facilitated by the CFPB (CFPB 2016).

The centralization of the complaint process in the hands of an agency actively promoting consumer financial protection should, according to the theory presented in this chapter, lead to the growth in consumer complaint making to the CFPB, especially relative to both existing governmental agencies and market organizations. I explore the trajectory of consumer complaint making to see whether the various administrative arrangements, before and after the CFPB, affect the propensity for consumers to make complaints about credit to a federal agency. While perhaps not as pointedly political as submitting a comment during the rulemaking process, filing a complaint with a federal consumer agency is a useful measure of citizen political engagement for two reasons. First, filing a complaint is a direct action in response to a credit grievance, and as we learned in Chapter Three, most consumers opt to direct that type of response toward market entities. Choosing to submit a complaint to a federal agency instead suggests that a consumer recognizes the regulatory power of that agency. Second, the complaints filed with a government agency—and the consumer narratives that the CFPB collects as well—provide direct evidence of consumer grievances that may be used in the rulemaking process (Board of Governors 1977: 29).

The following section primarily relies on complaint data collected by Consumer Sentinel between 2006 and 2015. Consumer Sentinel, established in 1997

for the benefit of law enforcement officials, is a database of consumer complaints that is managed by the FTC. The agency aggregates consumer complaints across all products and services in its jurisdiction, including complaints made to a number of participating federal government agencies and private market organizations, making it a unique source of data that crosses the political-market divide. Descriptive metrics have been made available to the public every year since 2006. The reports began to incorporate CFPB complaints in 2011, allowing me to analyze patterns of complaint making both before and after the emergence of the CFPB. Consumer Sentinel collects complaints in three broad categories: fraud, identity theft, and other. Consumer finance complaints are included in both the fraud and other categories.

Figure 5.5: Percent of Consumer Complaints by Organization, 2011-2015



Source: Calculated from Consumer Sentinel Annual Reports, 2011-2015

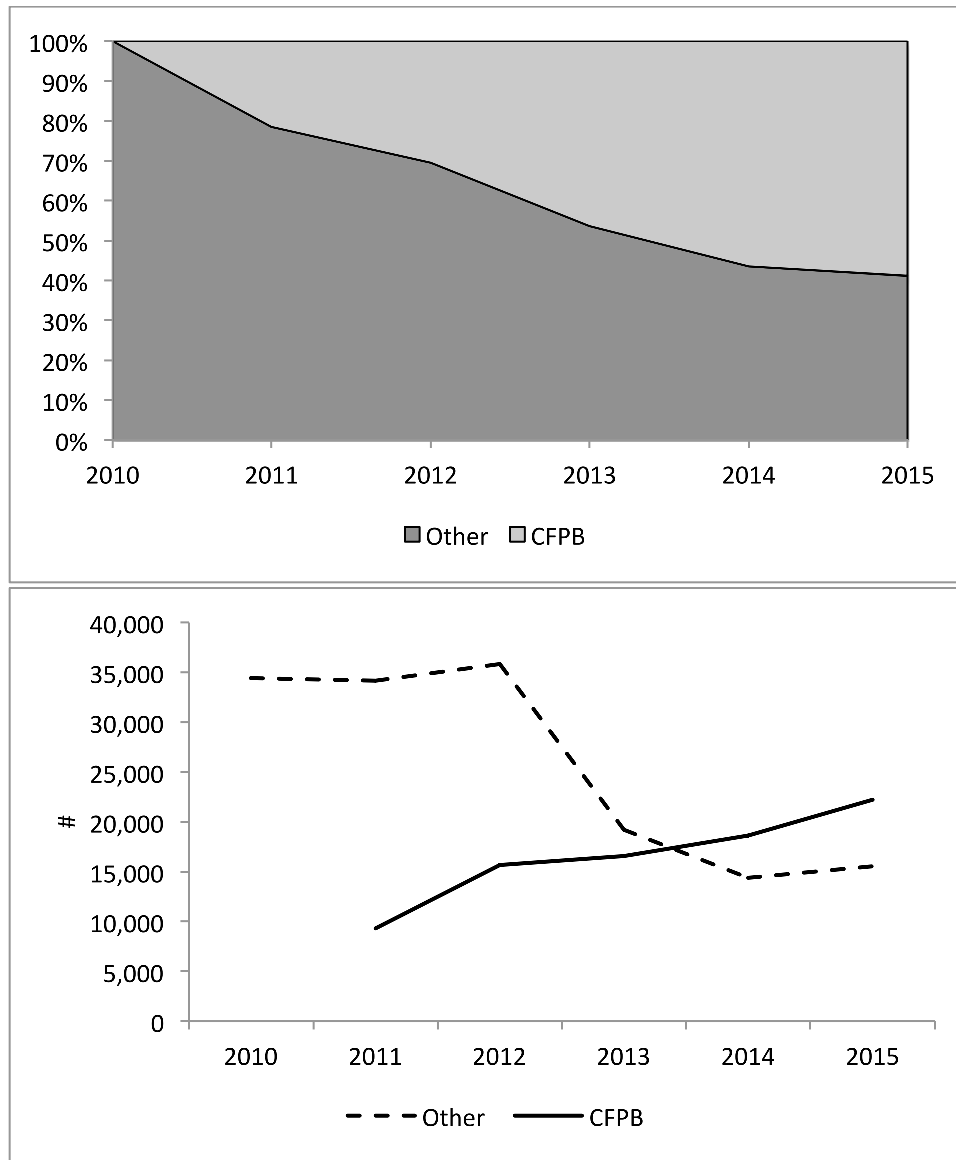
The evidence presented in Figure 5.5 suggests that changing the administrative arrangement for consumer credit protection has indeed reshaped consumer complaint making. Figure 5.5 reports the percent of all fraud and other consumer complaints

submitted to three major organizations—the FTC, the Better Business Bureau (BBB), and the CFPB—since the CFPB first began submitting to the system in 2011. As expected, CFPB complaints represent a growing percent of the total complaint population. In 2011, 28 percent of all fraud and other complaints were submitted through the FTC, while another 26 percent were submitted through the BBB. By 2015, seven percent of all fraud and other complaints were submitted through the CFPB, compared with eighteen percent through the FTC and twelve percent through the BBB. This is a particularly striking change because, while the CFPB is only submitting consumer credit complaints—and a narrower subset than those collected by the other agencies—the measures for both of the other organizations include a wide variety of non-finance complaints (e.g., consumer software, health care, sweepstakes, etc.).[69]

Another way of examining the potential effect of a more visible government agency—the CFPB—compared with its less visible predecessors is to look at how much the CFPB contributes to a specific subset of complaints. Since the CFPB has been collecting credit card complaints longer than other types, Figure 5.6 shows the percent and number of all credit card complaints reported in Consumer Sentinel that come from the CFPB versus all other participating organizations. Once again, the other organizations include both government and market groups that contribute to the database.

[69] The Consumer Sentinel data available to the public does not separate the type of complaint by complaining agency, so it is impossible to see how many FTC complaints, for example, were for credit issues.

Figure 5.6: Consumer Complaints Submitted by Organization, 2011-2015



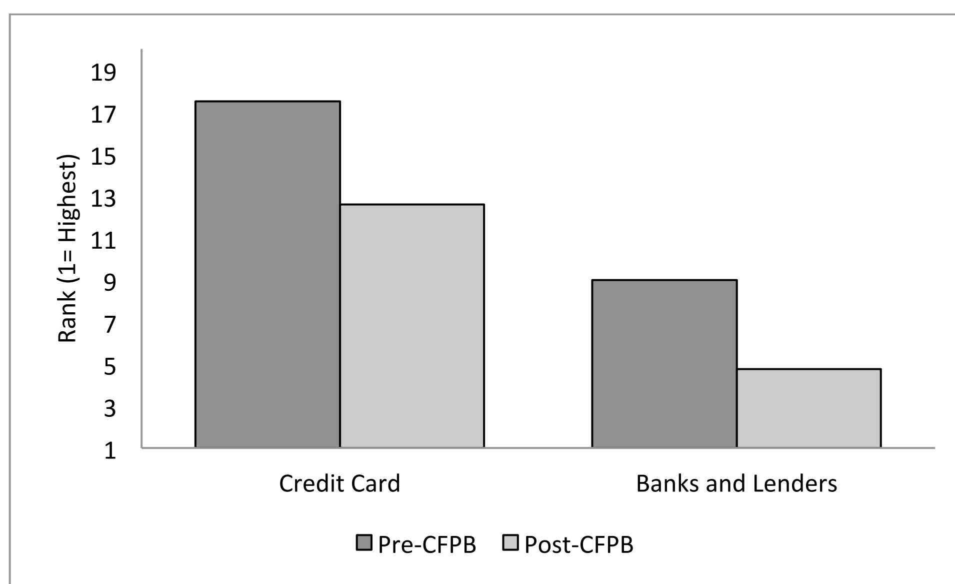
Source: Calculated from Consumer Sentinel Annual Reports, 2010-2015

As the graphs show, credit card complaints submitted to the CFPB have grown relative to other sources in the last four years—a remarkably short period of time for people to begin to identify the CFPB as the appropriate landing place for their grievances. By 2015, CFPB credit card complaints outstripped those from all other contributing agencies combined, both political and market. This trend is particularly

noteworthy because it suggests that not only are people increasingly likely to turn to the CFPB with their credit concerns, but they also appear increasingly likely to turn to a political actor—the CFPB—rather than a previously sought after market actor—the BBB.

Not only are consumers engaging with the CFPB more than with existing agencies—both federal and market-based—but there is also some evidence to suggest that the CFPB is actually leading to an overall increase in the submission of consumer credit complaints. Figure 5.7 reports the mean ranking of "credit cards" and "banks and lenders" as complaint categories for the periods before and after the CFPB began to collect complaints for each area (2011 for credit cards and 2012 for banks and lenders). A ranking of one means that a particular complaint type received the largest aggregate number of complaints in a particular year, and the ranks descend from there.

Figure 5.7: Rank of Credit Card and Bank and Lender Complaints by Presence of CFPB



Source: Calculated from Consumer Sentinel Annual Reports, 2006-2015

As the figure demonstrates, on average, credit card complaints ranked about

five places higher (moving from around 18 to around 13) and bank and lender complaints rose on average four spots in the ranking (from about 9 to about 5) after the CFPB started to collect complaints for each category. It is hard to imagine that this result reflects such a significant leap in actual credit card and banking problems, particularly as we move away from the financial crisis. This suggests, therefore, that the CFPB has contributed to an increased willingness of American borrowers to take action in response to their adverse credit experiences, and they are taking that action toward a political actor.

The changing pattern of consumer complaint submissions after the creation of the CFPB suggests that the structure of the administrative environment does produce feedback effects for ordinary Americans' willingness to engage with regulatory agencies on credit issues. Moving from a fragmented scheme of regulation, in which the agencies responsible for carrying out consumer protections had neither the expertise nor the incentive to make it a priority, to a system where regulatory authority is centralized in a consumer-oriented agency correlates with greater willingness to turn to a governmental agency with credit grievances. While it is difficult to conclude with certainty the precise mechanisms in play, several seem plausible.

Perhaps the centralization of authority in a single consumer protection agency has made it easier for citizens to identify a relevant political actor to turn to. Such a scenario may have been amplified by the extensive and proactive outreach to consumers conducted by the new bureau—an unlikely action for those regulatory agencies focused more on their relationship with financial institutions. CFPB Director Richard Cordray elaborated on this point in a 2014 address to the American Bar

Association:

> "We are the first federal agency ever created with the sole purpose of protecting consumers and seeing that they are treated fairly in the financial marketplace. ... [I]t means an agency that prides itself on using technology and other new tools to achieve broad outreach to communities across the country and to the individual consumers we were created to serve." (Cordray 2014)

Indeed, on May 5, 2016, the CFPB held its 34th field hearing since its inception in 2011—an average of seven field hearings every year. As of May 2016, the CFPB also has more than 55 thousand Twitter followers. By way of comparison, the other two agencies most heavily involved in consumer credit rulemaking and enforcement—the FTC and the FRB—have 39 thousand and 25 followers respectively. The public release of closed complaint data is another important feature of the CFPB's public outreach. Indeed, the simple practice of making raw complaint data available to the public—something the FTC does not do—should not be overlooked. Industry groups and powerful Republicans, including the lobbying organization run by the Koch brothers, have fought tooth and nail to eliminate the public complaint database, arguing that it will mislead consumers (Watzman 2012). Each of these activities supports the idea that the CFPB has been particularly diligent in reaching out to consumers directly.

The Importance of Public Interest Participation in Regulation

This chapter has demonstrated that the administrative environment for consumer credit policy has the potential to significantly influence both the efficacy of public interest group lobbying and the public's engagement with the regulatory process. Driven primarily by national economic concerns, federal policymakers originally assigned regulatory and enforcement authority for the growing corpus of

consumer credit legislation to existing financial agencies designed to protect the profitability and stability of U.S. financial institutions. The result was a fragmented system of regulatory authority that produced a race to the bottom when it came to enacting measures to protect consumer finances. Not only did this system mean that consumer advocates had trouble finding receptive bureaucrats with whom to work, but the patchwork system for protecting consumers made it difficult for consumers both to identify an agency receptive to their concerns and to take appropriate action if they opted for political action at all.

When the Dodd-Frank Act established the CFPB in 2010, the regulatory infrastructure was fundamentally altered. As policymakers were convinced that the stability of the financial system was, in fact, tied to protecting consumers from risky loan products, they created a robust agency with centralized authority to protect consumer finances, replacing the piecemeal system of regulators who were ill equipped to help consumers. This regulatory restructuring has clearly improved the fortunes of consumer advocacy groups, and it has seemingly increased consumer engagement with the regulatory system.

Each of these changes represents a significant step forward for the future of consumer financial protection, but does the creation of the CFPB hold even greater potential to reshape consumer politics? The following chapter considers whether the CFPB represents a critical juncture in the politics of consumer credit. After reviewing the analyses presented in each of the previous chapters, it concludes by exploring the potential for the CFPB to fundamentally reshape future policy remedies and reorient consumers toward broader political engagement on credit issues, and the obstacles that

stand in the way.

CHAPTER SIX

A New Lease: The CFPB and the Future of Consumer Credit Politics

"Upon entering office," Rolling Stone columnist Matt Taibbi declared, "FDR was in exactly the same position Obama found himself in after his inauguration in 2009" (Taibbi 2012). Comparing the two presidents was nothing new when Taibbi wrote this in an article assessing the policy response to the financial crisis. On its November 24, 2008 cover, printed shortly after President Obama's first victory, Time Magazine photo shopped the president-elect's face onto a famous picture of a smiling President Roosevelt driving a convertible with a cigarette in his mouth. The headline read "The New New Deal: What Barack Obama can learn from FDR—and what the Democrats need to do." The comparison was understandable. Both men were elected in the midst of the most devastating economic crisis of their respective generations. Both were propelled into office by a wave of public hope that they could turn things around. Both were Democrats poised to re-shape their party's legacy.

With no attempt to disguise his disappointment, Taibbi lamented that, despite inheriting similar circumstances, President Obama failed to live up to the policy legacy of his predecessor. According to Taibbi, "President Franklin D. Roosevelt launched an audacious rewrite of the rules governing the American economy following the Great Crash of 1929," while the financial reform package supported by President Obama and congressional Democrats "was never such a badass law to begin with." His frustration with the lack of meaningful financial reform—including attempts to rein in predatory consumer lending—is reasonable; it is, after all, an

opinion that was shared by most consumer advocates, many ordinary Americans, and a handful of politicians. However, Taibbi's assertion that the Roosevelt and Obama administrations inherited similar situations, while only one (Roosevelt) managed the economic crisis successfully, ignores a fundamental truth about the political system: Policymakers today face a tremendously more challenging task than their predecessors did, in part because of the very success those predecessors achieved.

Scholars of historical institutionalism have long acknowledged that, once established, political institutions—the so-called "rules of the game" that shape political decision making—become an enduring part of the political landscape. Karen Orren and Stephen Skowronek explain, "all political change proceeds on a site, a prior political ground of practices, rules, leaders, and ideas, all of which are up and running" (2004: 20). In short, politicians are rarely able to operate from a clean slate. And over time, responding to the progressively more complex—and sometimes contradictory—institutional arrangements created in previous eras becomes increasingly challenging.

Public policies work the same way. Once enacted, policies—especially those that become enduring features of the political landscape—create rules and incentives that political actors must contend with moving forward. After a policy is created to address a particular issue, lawmakers confront that policy whenever they seek to engage in future legislative activity on the same issue. Suzanne Mettler coined the term "policyscape" to describe a political landscape that is increasingly cluttered with existing policy programs (Mettler 2016). The policyscape, as this project has hopefully demonstrated, has the power to influence the subsequent behavior of a variety of political actors including policymakers, organized interest groups, and citizens.

Taibbi's acknowledgement that President Roosevelt undertook "an audacious rewrite of the rules governing the American economy" is true. But I argue it was exactly this rewrite that helped to produce the seemingly lackluster response to the most recent financial crisis. It would be more accurate to say that, despite inheriting what appeared to be similar situations, President Obama and his colleagues faced institutional challenges that President Roosevelt never encountered. It was, ironically, President Roosevelt's successful response to the Depression that eventually inhibited his political descendants', and indeed consumers' and advocacy organizations', abilities to do the same.

The Political Economy of Credit from Great Depression to Great Recession

This project began with a series of puzzles about consumer credit politics in the United States: Why have policymakers consistently pursued disclosure requirements as the main form of consumer credit protection, even when indicators suggest they do not work? Why were American consumers not motivated to take political action for their grievances with financial products, despite the fact that increasingly predatory lending practices pose a significant threat to their financial security? Why have consumer groups been stymied in their efforts to engage distressed consumers politically when mobilization usually increases participation? And why has the regulatory environment not been more welcoming of consumers and consumer interest groups?

I argue that these puzzling aspects of the politics of U.S. consumer financial protection stem from the policy decisions made by New Deal lawmakers. When confronted with the economic ravages of the Great Depression, President Roosevelt's

brain trust turned to the idea of a consumption-driven economy as the best way forward. They pursued a number of programs to realize that vision, but chief among them was a little-heralded provision of the National Housing Act—the Title I Home Modernization Loan Program. Policymakers might have chosen to pursue a more European-style welfare system to provide the purchasing power necessary to reignite the engine of a consumption economy. But the United States had already moved away from a traditional welfare system (Skocpol 1992). While notable programs like Social Security were created in this vein, it is hard to imagine that the political will existed by 1934, when the NHA was enacted, to establish a welfare system sufficiently large to boost consumption. Lawmakers might also have considered new wage laws to generate consumer purchasing power. Indeed, in 1938 the Fair Labor Standards Act set a national minimum wage of 25 cents per hour for a subset of industries. However, with an unemployment rate surpassing 20 percent in the early years of the Depression, and a dubious Supreme Court, it is again difficult to conceive that policies to increase wages would have been a viable scheme. Instead, the Roosevelt administration turned to credit as the solution to the problem of underconsumption.

With the stroke of a pen, President Roosevelt signed into law the first building block in the U.S. political economy of credit on June 28, 1934. Chapter Two described the political rationale behind the home loan modernization program and the effect of the new law on the proliferation of consumer lending in the United States. It demonstrated how the creation of a political economy of credit subsequently forced federal policymakers to maintain widespread credit access to promote national economic stability. Once set in motion, the political economy of credit introduced

constraints that would reshape the future politics of consumer credit.

The Primacy of Disclosure

The political economy of credit influenced the trajectory of future policymaking in two ways that ultimately restricted the potential for more efficacious consumer financial protections. Specifically, it constrained the types of remedies that Congress could enact, and it created an administrative scheme that inherently diminished the prospects for strong consumer protection regulations. For members of Congress, the political economy of credit meant that any future policymaking had to be attentive to the issue of credit access. The system depends on increasingly broad access to consumer credit, but it also requires consumers to be confident in their ability to use that credit. When Congress was confronted with the need to regulate the growing consumer credit market in the 1960s, lawmakers had to identify a policy remedy that could accomplish the second goal without counteracting the first.

Congress identified information disclosure as an ideal solution. By forcing lenders to provide consumers with more information on their credit products, the problem of adverse selection was corrected to a degree. Consumers, the logic went, would feel empowered to make smart choices when shopping for credit. And unlike the implementation of prohibitions on specific risky lending practices, information disclosures did not restrict the supply of credit. As a result of the political economy of credit, policymakers found themselves locked in to a path dependent process wherein information disclosure was the only appropriate policy remedy in most cases.

The demands of maintaining such a system spilled over into the administrative arrangement for credit regulations as well. Lawmakers chose information disclosure in

response to the need to prioritize credit access over consumer protection. Likewise, the need to promote the financial security of institutions affected the assignation of both rulemaking and enforcement authority for the new credit regulations. With their focus firmly on these questions of systemic stability and profitability, members of Congress simply assigned authority for each new credit policy to whichever of the preexisting financial regulators held responsibility for overseeing the institution that provided the regulated type of credit. The result, as I detailed in Chapter Five, was that rulemaking and enforcement authority for these policies was fragmented across a number of different federal agencies, only one of which—the Federal Trade Commission—had a mission partially geared toward consumer protection.

In this system, regulators faced a separate set of constraints when carrying out their responsibilities for the new credit laws. First, as the testimony from bureaucrats like Sheila Bair detailed, the fragmentation of rulemaking and enforcement authority made it difficult for a single agency to carry out their mandate without consultation from other agencies. This was further hampered by the fact that regulators had incentives to appease the financial institutions they had oversight for so as not to lose jurisdiction for them. In the worst-case scenario, and unfortunately a common one, these problems combined to incite regulatory arbitrage, or a race to the bottom. The least onerous policy, from the perspective of the financial institutions, was frequently adopted. Between their mission and the institutional arrangement of rulemaking authority, regulators had neither the expertise nor the incentive to take a more active stance in favor of stronger consumer protections.

The demands of maintaining a political economy of credit clearly limited

federal policymakers' ability to enact more substantive consumer financial protections. This, alone, had the capacity to produce significant economic consequences. But, as I have argued in this project, the regulatory feedback effects produced by consumer credit policies emanated well beyond the purview of policymakers. The policy regime that emerged in response to the political economy of credit influenced the subsequent political preferences and behaviors of individual citizens and consumer interest groups in important ways.

Privatizing Credit Politics

The consumer credit policies that emerged between 1968 and 2010 had several distinctive features with respect to their design, implementation, and administration, as detailed in Chapters Three and Five. First, the adoption of information disclosure as the primary policy remedy served to personalize the use of credit. Disclosures are premised on the idea that providing information allows consumers to make rational decisions as market actors. The policy design teaches consumers that they simply have to be responsible credit shoppers to protect themselves from bad deals. This logic suggests that when problems with consumer credit do occur, it is either the fault of the lender for being deceptive or the fault of the consumer for making bad choices. Government is nowhere to be found in this equation—a fact that is exacerbated by the implementation and administration of these remedies.

Consumer credit policies are implemented and administered in ways that obscure government's involvement in financial markets, thus privatizing the borrowing experience. When New Deal policymakers set out to create a credit market in the absence of one arising "naturally" from market forces, they chose not to make

loans directly from the government. Instead, private sources of credit were incentivized to lend with the backing of government insurance. When policymakers in the 1960s and 70s were faced with the need to regulate the consumer credit market that emerged, they also created policies that were implemented primarily through existing market transactions. Information disclosures appeared in contracts for credit as though companies had simply decided to include them one day, without any sign that they were a response to governmental policy mandates. And because loans did not have to pass any inspection or safety protocols, credit contracts did not carry any visible indication that a government agency had approved them for use. Furthermore, the initially fragmented administration of consumer credit made it difficult for consumers to identify a single government agency that they could associate with consumer financial protection.

The result of these two dynamics, I argue, is that consumers came to view their credit transactions as existing solely within the realm of the market. Government's role in both the creation and the continued oversight of the credit industry is completely obscured from consumers. And policy remedies further the notion that the use of credit represents a relationship solely between lender and borrower. So when something goes wrong, I argue, consumers have no incentive to turn to political actors for redress. Instead, they attempt to get resolution for both their specific credit problems and their more general dissatisfaction with lenders by engaging directly with market actors. When consumers shy away from voicing their concerns with financial products and services directly to legislators and regulators, it further reduces policymakers' incentives to consider more fundamental reforms to the existing credit

policy arrangement.

Limiting Consumer Advocacy

The constraints placed on policymakers and the diminished incentives for ordinary borrowers to make claims on political actors place significant obstacles in the path of consumer advocacy organizations as well. As Chapter Five details, the administrative arrangement for consumer credit regulation—especially prior to the formation of the CFPB—reduced the receptivity of bureaucrats to public interest group lobbying efforts. Not only was it occasionally challenging for advocates to coordinate their resources across the multiple agencies involved in a particular regulatory issue, but their proposals had trouble gaining traction with agencies designed to support banks and not consumers.

The efficacy of lobbying—both in the legislative and administrative arenas—was further challenged because these groups had trouble mobilizing consumers in support of their proposals. As Chapter Four detailed, public interest groups faced a particularly difficult challenge creating an appeal for political action that resonated with consumers, who tended to place the blame for credit problems solely on the shoulders of market actors—both borrowers and lenders. Groups like AFFIL and AFR never fully overcame the disconnect between consumer attitudes and the need for political action, removing a crucial component from their lobbying efforts.

* * *

From the perspective of those who favor a new approach to consumer financial protection, the previous pages paint a bleak picture. The creation of a political economy of credit appears to have induced a self-reinforcing cycle that closes out

more consumer-friendly policy reforms. Lawmakers are motivated to rely on the status quo—information disclosures. This policy regime produces regulatory feedback effects that teach consumers that credit lies entirely in the realm of the market, removing their incentives for political action. Without receptive lawmakers or demanding citizens, public interest groups face a nearly impossible task in convincing government officials to consider new methods of credit regulation. And the cycle begins again.

The CFPB: a New Lease?

The creation of the CFPB, however, may have the potential to disrupt this cycle. Chapter Five already demonstrated some of the ways in which the new agency has changed the regulatory landscape, making bureaucrats more receptive to consumer advocates and increasing consumer political action via complaint-making. Does the CFPB represent what scholars call a critical juncture?[70] That is to say, can the creation of the CFPB serve as a catalyst for changing the politics of consumer credit in the United States? The following sections consider the potential of the CFPB to rewrite the rules on consumer credit politics and the pitfalls that stand in the way.

Embracing New Approaches

Both legislators and bureaucrats have promulgated the maintenance of the existing consumer credit policy regime. Does the creation of a new agency, one designed with the explicit purpose of protecting consumers across the gamut of financial products, have the potential to shift this dynamic? Chapter Five provides

[70] A critical juncture is typically defined as a significant choice, or shift, in political life that has the potential to set a new path forward while foreclosing other options (Lipset and Rokkan 1967; Berins Collier and Collier 1991).

initial evidence to suggest that the CFPB has been more receptive to the lobbying efforts of consumer groups. The agency has also demonstrated its willingness to go after new targets in the fight against predatory lending. For example, in 2015 it launched a major rulemaking initiative to crackdown on payday lenders heretofore ignored by federal regulators (Puzzanghera 2015). In addition to signs of the agency's willingness to expand its focus, and potentially its approach, it also benefits from its relative power and funding independence. As one of the consumer advocates I spoke with admired, "[T]he CFPB is, if you compare it to comparable regulatory agencies, in terms of its jurisdiction, authority, and funding, particularly funding, which was a special interest of mine, was very strong" (0312151 March 2015).

While the CFPB holds tremendous potential to move toward a more expansive model of consumer financial protection, welcoming the input of public interest groups along the way, there are a number of obstacles to realizing this vision. First, the agency's approach to consumer protection is still, at heart, oriented toward educating consumers. Their own mission statement reads, "Our mission is to make markets for consumer financial products and services work for Americans. ... Above all, this means ensuring that consumers *get the information they need to make the financial decisions they believe are best* for themselves and their families" (CFPB 2014).[71]

Another potential problem relates to the eventual trajectory of the CFPB. While it is currently staffed by pro-consumer experts and directed by a long-time supporter of predatory lending reform, Richard Corday, a new presidential administration may mean changes to the agency's direction. In fact, the fight over

[71] Emphasis added by author.

whether the CFPB should be run by a single director or a multi-member board was a huge point of contention during the legislative debate on its creation. As one advocate explained:

> "We had a big discussion as the legislation was moving through about what the right structure was. And the truth is, there are pros and cons to both. Neither is perfect, and people like me – I initially favored a board before because I worried about a single individual being able to send an entire – have them turn on a dime. But, Barney Frank in particular insisted on a single director, and it has been important as they have geared up. Having that unify lines of support." (0312151 March 2015)

But those same advocates recognize that what has been a strength under a pro-consumer director could quickly turn into a weakness under more conservative leadership. A senior staffer at one of the public interest groups acknowledged, "Absolutely. This is a one-person show, and so a new appointment could radically change things" (1119141 November 2014). Another advocate envisioned that potential scenario and its effect on the CFPB's direction:

> "The truth is that consumer financial agencies have their good years and their bad years with a single director. ... [I]f we get a Republican president...Richard Cordray decides to leave office and run for governor of Ohio, which is a reasonably good possibility, and he's replaced by a Republican who works with the American Bankers Association, you'll see a very sharp shift. Live by the sword, die by the sword. It's one of the disadvantages to the single realm." (0312151 March 2015)

A change of leadership is only one way that the CFPB could distance itself from a more pro-consumer agenda. The agency could, potentially, become the victim of regulatory capture. One advocate suggested with resignation, "At some point it may, like most agencies, be more or less captive or under the influence of the people they're regulating, but that isn't true now. And hopefully won't be true for a decade or two. But it'll probably happen" (1119141 November 2014). For now, however, the

CFPB is still going strong as an advocate for consumer financial interests.

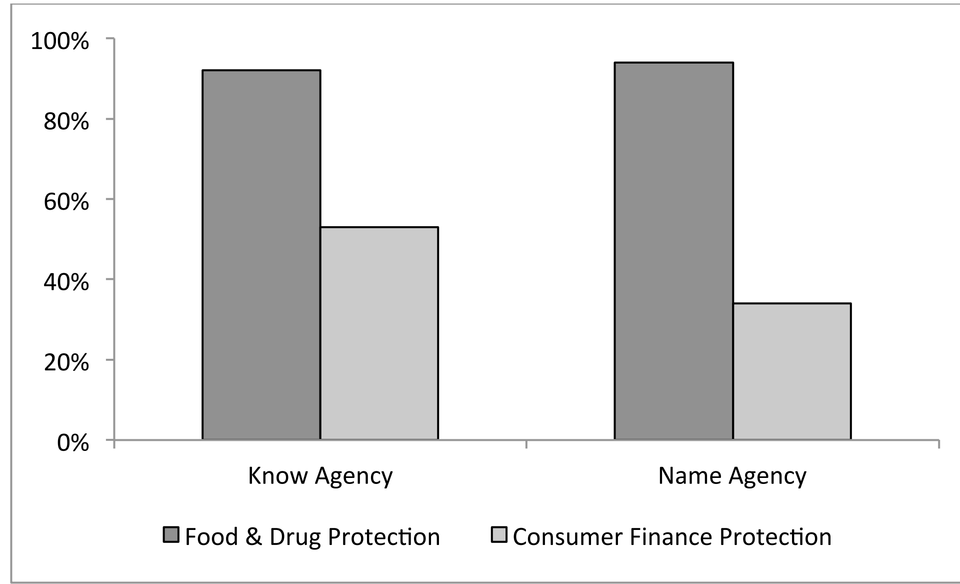
Enabling Consumer Political Engagement

If that eventually changes, however, the mere presence of an identifiable, centralized government agency dedicated to protecting consumers in their credit transactions may reshape another facet of credit politics: the political engagement of consumers themselves. I have argued that one of the major obstacles preventing greater consumer political action in response to credit problems is the obscurity of government in the realm of financial transactions. The CFPB may not ultimately lead to less personalizing consumer policy remedies, and it may not change the fact that those remedies are implemented primarily through existing market transactions. But the organization does have the capacity to serve as a beacon signaling the presence of government in the regulation of consumer credit. Like its well-entrenched colleague the FDA, the CFPB's active consumer outreach combined with its unique mission may raise its profile sufficiently so that the ordinary borrower recognizes that the agency is a viable option to consider when something goes wrong. Over time, this could create a broader sense of recognition that government is actively engaged in consumer credit policymaking, thus increasing the odds of consumer political engagement.

The shift in complaint making toward the CFPB, even in its first few years of existence, is a positive indicator of this potential. But there is still has a long way to go. As part of the 2015 Survey of Consumer Credit, I asked respondents whether they thought a government agency existed to protect consumers in two separate arenas: food and drugs and consumer finances. For those respondents who said yes to each

question respectively, I asked them to name the agency in an open-end response. Figure 6.1 reports the results of those two questions.

Figure 6.1: Knowledge of and Ability to Name Federal Agency for Food and Drug vs. Consumer Financial Protection



Source: 2015 Survey of Consumer Credit

As Figure 6.1 illustrates, more than nine of every ten respondents (92 percent) thought a government agency existed with the mission of protecting consumer safety in the use of food and medication. Perhaps even more incredibly, 94 percent of respondents who thought such an agency existed could actually identify either the FDA or the USDA as the appropriate regulatory body in an open-end response. This level of recognition is presumably helped by the relative age of these two agencies, but the fact that the average American is confronted directly with a notice of either USDA or FDA approval every time she shops for meat or vitamins must surely contribute to the regulatory bodies' respective high profiles.

The results for consumer financial protection demonstrate reasons both for

optimism and caution. Just over half of all respondents (53 percent) thought that a federal agency existed to protect consumer financial transactions. Unfortunately, only about one third of those respondents could correctly identify the CFPB—or even the FTC or the FRB—as the appropriate regulator. A small handful of respondents identified the Securities and Exchange Commission, but most either could not come up with a name or recorded an agency name that does not exist. Once again, these responses suggest that consumers are not able to identify the agencies predating the CFPB as working in their interests. The CFPB may be on pace to change that trend, but only time will tell.

Republican Attacks

There is, of course, one other reason to be cautious about the potential for the CFPB to serve as a critical juncture in the politics of consumer credit. If it is going to reshape consumer politics, it needs to be around long enough to do it. Practically before the ink was dry on President Obama's signature of the Dodd-Frank Act, congressional Republicans were engaged in legislative attempts to dismantle or defang the CFPB. One of the first targets was the agency's independence. The latest in a string of attempts is being led by Representative Sean Duffy (R-WI) in the House and Senator Deb Fischer (R-NE) in the Senate. Their respective bills attempt to 1) replace the director position with a five-member board, 2) make the agency's budget subject to congressional approval, and 3) provide greater FRB oversight for the agency's decisions (H.R. 1265; S. 2213). Other bills have attempted to severely shackle the public availability of the CFPB's consumer complaint data (e.g., H.R. 4604), and eliminate funds used to compensate consumers for losses from failed financial

institutions (Eichelberger 2014).

If the CFPB can survive these attacks, it has the potential to reshape many aspects of the politics of consumer credit in the United States. But, as the previous sections caution, the agency will have to avoid capture, endure changing leadership, and potentially undergo a slow process of public recognition to realize that potential.

The Importance of Consumer Credit and Politics

Beyond making its central argument argument, this study contends that consumer credit is a topic of inquiry requiring greater exploration. For a nation whose political economy and culture are fundamentally tied to the promise, and sometimes the peril, of mass consumption—a so-called "consumer's republic"—it is imperative that we know more about the main fuel for that system. This project has taken up that mission, contributing both to our scholarly understanding of the politics of consumer finance and of public policy more broadly and to the practical politics associated with each.

The centrality of consumer credit to the expansion and substantiation of a robust national economy has made consumer financial regulation an attractive subject for economic analysis for several generations. Researchers have explored the economic efficiency of a variety of consumer credit products and policies, focusing particularly on the growth of consumer borrowing. As Chapter One described, however, it has only been in the last two decades that scholars have turned their attention to cultural, and occasionally political, topics related to consumer finance. Historians have crafted compelling narratives of the way that consumption and consumer finance reshaped American culture. More recently, others delved into the

political roots—from public policies to political coalitions—that helped to expand consumer credit in the United States. And finally, scholars have articulated a vision of the American political economy as one that embraces consumer credit as a stand-in for a more traditional welfare state.

While each of these works is masterful in its own way, they all miss two important things. First, existing scholarship on the growth and economic consequences of consumer credit places perhaps too much emphasis on credit as a way to provide individual welfare through private means. A credit-welfare state may well have been the outcome of federal policymaking in the United States, but I argue that the primary intention of policymakers has rarely been on maintaining the welfare of individuals. Instead, policymakers were primarily motivated by national economic concerns, and specifically, the creation and preservation of a consumption economy fueled by credit. This orientation toward national economic stability is crucial for understanding the specific policies that federal lawmakers adopted over time with respect to consumer credit.

If the welfare function of consumer credit was foremost in the minds of policymakers, it is hard to imagine they would have produced a system of consumer protection that so thoroughly ignored safety and inspection protocols that could better protect the actual welfare of borrowers. An anecdote from one of the advocates I spoke with provides a good counterfactual for what credit policies might have looked like if individual welfare was the primary legislative goal. He described the growing use of pre-paid cards to distribute unemployment and other welfare benefits—quite literally using credit for welfare. He then went on to explain what happened when

policymakers found out that some of these cards had predatory terms attached to them:

> “[W]e did a report on prepaid cards used for public benefits. ... We put that out with a grade for every single state, and within weeks, states were so embarrassed that reforms were taking place. I don’t think each state contracted with [a] prepaid card provider, usually Chase, without knowing what other states were doing, and I think they were just mortified that they had walked into these horrible relationships.” (1119141 November 2014)

Mortified reactions and immediate attempts to fix the problems of predatory credit have not, however, been the modal response from policymakers who find out that credit cards have exorbitant interest rates and fees. At least not when those cards are not used to directly distribute government benefits. Instead, when they respond at all, policymakers have simply increased the information disclosed to consumers, arguing that people can use that information to protect themselves. This reaction only makes sense when considering the real goals and constraints of federal policymakers. They have been forced to adopt credit regulations that preserve widespread access to credit, something that restricting risky lending terms simply would not accomplish. And these policy details are important, as this project has argued, because they produce very different political consequences from more overt protective regulations.

The second flaw with the existing work on consumer finance stems directly from this last point. While scholars have explored some of the political causes that contributed to the growth of consumer credit in the United States, they have paid scant attention to the political consequences of that outcome. Political consequences are central to this project. I have emphasized how the creation of a political economy of credit in the United States has influenced the subsequent political behavior of policymakers (both legislative and bureaucratic), public interest groups, and ordinary

citizens in meaningful ways. Ways that have significant implications for future policy reform efforts.

This project ultimately makes significant contributions to two major branches of scholarship: the study of consumer credit and the broader examination of how public policies shape politics. With respect to the first, this project reconsiders how consumer credit works in the U.S. political economy, it explores why and how specific policy details were adopted, and it contends that those policy details have produced an interconnected political response by policymakers, bureaucrats, interest groups, and citizens.

With respect to the second, this study makes three key innovations to the study of policy feedback effects. First, it broadens the scope of inquiry for examining how the privatization of welfare provision effects political behavior in the United States to include consumer credit, an increasingly important stand-in for a more robust welfare state. Second, the theory of regulatory feedback effects presented and applied in this project offers a necessary expansion of the logic of policy feedback into a centrally important yet underexplored realm of policymaking: protective regulation. The framework articulated in the previous chapters has the potential to shed light on political dynamics for a range of essential policy issues from environmental protection to food and drug regulation. Finally, this study expands the scope of policy feedback to include how particular elements of a policy's administrative arrangement produce effects that constrain bureaucratic rulemaking and influence the participation of interest groups and ordinary citizens in the rulemaking process—a key site for policymaking.

Not only is it important to understand these phenomena from a scholarly perspective, but the process of consumer credit policy development detailed in this study, and the political consequences it produced, are also relevant to real-world politics. The project has detailed how the feedback effects generated by consumer credit policies have diminished the political pressure that citizens and public interest groups have brought to bear on government actors. I have already identified one specific takeaway for consumer advocates: they must find a way to illuminate government's responsibility for regulating credit in order to have a chance to spark political mobilization among consumers. But there are other lessons to be learned as well.

Perhaps supportive policymakers and consumer advocates would have better luck introducing more substantive policy reform if they can directly tie those measures to national economic stability. Proponents of reform might also be better served to think creatively about non-disclosure policy alternatives that do not restrict the credit supply. Or perhaps they should focus their efforts on existing proposals, for example debt collection reforms, that are less tied to the supply of credit. Better understanding the motivations behind and resulting dynamics of consumer credit policymaking in the United States can allow political actors to improve their strategic decision making on these issues. And the framework provided in this project can be broadly applied to make strategic decisions about other types of regulatory issues as well.

There are, of course, plenty of avenues left for exploration. Despite consumer credit's centrality to economic citizenship in the United States, we have very little knowledge of, or data with which to study, the ways in which access to credit and debt

affect people's politics more broadly. For example, we know that socioeconomic resources shape people's engagement with the political system (e.g., Wolfinger and Rosenstone 1980; Brady et al. 1995), but does consumer debt factor into this equation? If so, how? Might the growth of consumer debt, exacerbated by the recent financial crisis, have contributed to the mounting dissatisfaction with mainstream political candidates and institutions?

We also know that the poorest Americans, who lack access to mainstream credit and banking, rely on an alternative set of financial markets (Bolton and Rosenthal 2005). Does access to mainstream credit, or the lack thereof, effect people's politics? Has the dramatic rise in payday lending since the 1990s (Casey 2005), which has quite visibly taken over Main Street in many towns across the country, reshaped people's engagement with their own communities? Can the presence of community credit and banking programs improve trust and civic engagement? There are plenty of questions that need to be asked and answered.

Expanding both our scholarly and practical understandings of consumer credit politics is an essential component for producing policy reform and avoiding a continuation of the consequences that stem from the current arrangement. Not only did the existing policy regime fail to protect the financial stability of the national economy, but it also failed to protect the economic security of the average American. The existing scheme of consumer financial regulation is especially impotent when it comes to safeguarding the most vulnerable borrowers from high-cost, risky lending practices, which only serves to exacerbate existing socioeconomic inequality in the United States. Reversing the gap that has grown between the top 20% of Americans

and the bottom 80% is unlikely to be achieved without considerable reform to U.S. consumer financial regulation.

* * *

Matt Taibbi's rather dismal assessment of the response to the financial crisis has been echoed by a number of prominent journalists and scholars in the last few years. Taibbi accused policymakers from the Obama administration of failing to meet the same standards that their predecessors in the Roosevelt administration achieved. But I argue that it is the very system enacted by New Deal policymakers—one that has been lauded by Liberals for decades—that introduced some of the specific constraints that future generations had to wrangle with in order to regulate the system of consumer credit created in 1934. Whether intentionally embracing the logic of regulatory feedback effects or not, however, Taibbi gets it right at the end: "The system has become too complex for flesh-and-blood people, who make the mistake of thinking that passing a new law means the end of the discussion, when it's really just the beginning of a war."

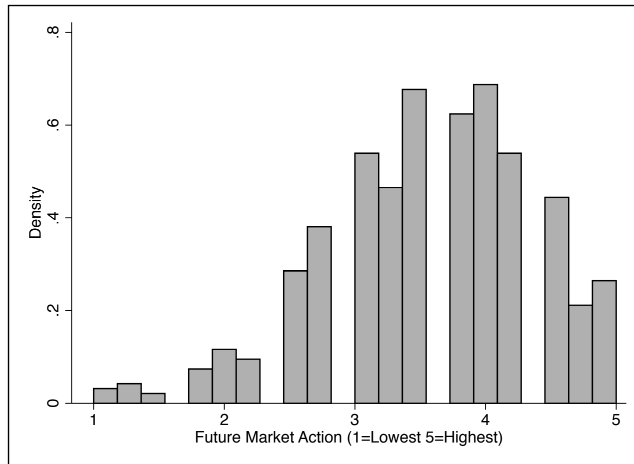
APPENDICES

Table A.1: Comparative Descriptive Statistics of Survey Samples

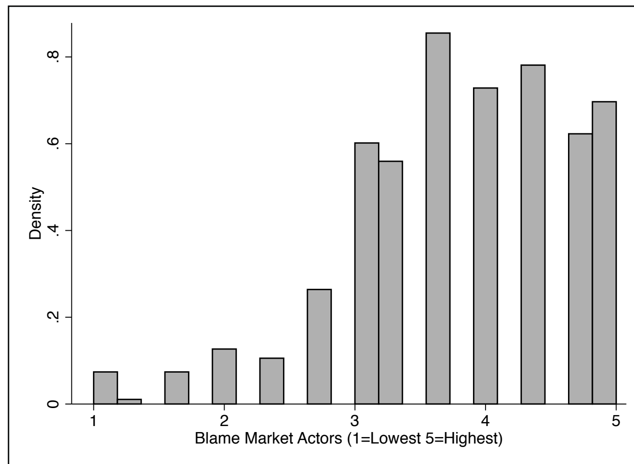
	ANES 2012	2015 Survey of Consumer Credit	MTurk Survey Experiment
Gender			
% Female	52	47	54
% Male	48	53	46
Race			
% White	59	83	79
% Non-White	41	17	21
Age			
Range	17-75+	19-74	18-80
Mean	48	37	40
Education			
% <High School Degree	11	1	1
% High School Credential	35	11	10
% Some College	34	40	37
% Bachelor's Degree	19	39	41
% Graduate Degree	12	10	13
Median Category	Some College	Some College	Bachelor's Degree
Income			
% <$25,000	31	22	24
% $25,000-49,999	24	34	33
% $50,000-74,999	17	25	23
% $75,000-99,999	11	10	12
% $100,000-124,999	7	6	5
% $125,000-149,999	3	2	2
% $150,000+	7	1	2
Median Category	$25,000-49,999	$25,000-49,999	$25,000-49,999
Party ID			
% Democrat	40	49	44
% Republican	24	20	20
% Independent	36	31	36

Figure A.2: Distribution of Primary Dependent and Independent Variables

Dependent Variable: Willingness to Engage in Future Market Action



Independent Variable: Blame Market Actors for Financial Crisis



Independent Variable: Blame Political Actors for Financial Crisis

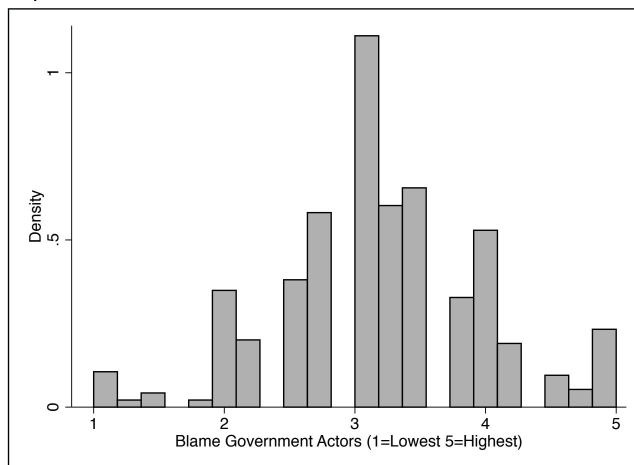


Figure A.3: Predicted Determinants of Political Action in Response to Appeal

	(1) Sign Petition to Congress	(2) Email Congress	(3) Call Congress
Responsibility (1=yes)	-1.142 *	-1.304 *	-0.093
	(0.171)	(0.159)	(0.072)
Predatory (1=yes)	0.790 *	0.841 *	0.038
	(0.113)	(0.132)	(0.080)
Experience (1=yes)	0.755 *	0.945 *	--
	(0.106)	(0.130)	
Party ID	-0.041	0.001	0.019
	(0.028)	(0.029)	(0.028)
Income	0.001	0.018	-0.020
	(0.038)	(0.041)	(0.041)
Education	-0.042	-0.090 *	-0.032
	(0.037)	(0.026)	(0.037)
Race (1=non-white)	-0.123	-0.230	0.377 *
	(0.136)	(0.996)	(0.141)
Gender (1=female)	0.039	0.109	-0.167
	(0.104)	(0.114)	(0.108)
Age	0.008	0.003	0.003
	(0.005)	(0.005)	(0.005)
Past Participation (1=yes)	0.390 *	0.394 *	0.003
	(0.155)	(0.156)	(0.005)
Constant	3.583 *	2.706 *	2.308 *
	(0.199)	(0.218)	(0.293)
N	495	495	492
R^2	.28	.30	.19

Notes: Figures in columns are OLS regression coefficients. Coefficient standard errors are in parentheses.
*p<.05

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