



Data, Lending, and Civil Rights April 8, 2015

MORNING WORKING SESSION

8:30 - 9 a.m. **Registration and Light Breakfast**

9 a.m. **Welcome and Introduction to Civil Rights Principles for the Era of Big Data**

9:10 - 9:50 a.m. **Introductory Presentations**

Three introductory presentations will provide a philosophical, historical, and technical foundation for the day's programming. Each presentation will be followed by 5 minutes of Q&A.

Access to Credit and Civil Rights (10 minutes)
Eric Halperin, Open Society Foundations

This session will focus on civil rights priorities in lending. Over the years, advocates have moved from talking about "access to credit" to "fair access to affordable credit."

- Under what conditions does credit improve consumers' lives? What are the philosophical foundations motivating civil rights advocates' work on access to credit?
- What lessons and diagnostics should apply to new lending products and algorithms?

Historical Perspective: Civil Rights Regulation and Market Automation (5 mins.)
Martha Poon, Data & Society Research Institute

This session will examine the impact of civil rights regulation on the design of credit scoring technology. Modern-day credit scoring was innovated by Fair Isaac, a company committed to automating the evaluation of credit applicants.

- What lessons can we learn from FICO's early entry into the analytics marketplace?

Understanding the Data (10 minutes)

Aaron Rieke, Upturn

This session will focus on the data used in credit decisions and credit marketing. The modern data ecosystem is complex. Even popular terms like “alternative data” mean different things to different people, and different kinds of data are governed by different regulatory regimes.

- What data is being gathered, by whom, and for what purposes?
- What do we mean when we say "alternative data" in 2015?
- What new data sources are accessible to credit bureaus and credit providers?
- What do “data brokers” know about us?

Suggested reading: Robinson + Yu (now Upturn), [*Knowing the Score: New Data, Underwriting, and Marketing in the Consumer Credit Marketplace*](#), October 2014.

9:50 - 10:30 a.m. Topical Presentations

Six topical presentations will explore a range of modern issues that are of interest to civil rights and privacy advocates. Each talk will be followed by 5 minutes of Q & A.

Credit Data’s “Mission Creep” (5 minutes)

Persis Yu, National Consumer Law Center

This session will explore how credit data can be used for non-credit purposes. For example, nearly half of employers check job applicants’ credit history when hiring, a practice that has been criticized as an illegitimate barrier to employment. Credit checks are also commonplace in housing applications, and individuals can be denied on the basis of bad credit even when they have sufficient financial resources to guarantee rent.

- What are the most concerning uses of credit data in non-credit settings?
- What new uses are on the horizon?
- What, if anything, can regulators do to address collateral uses of credit data?
- Is it better to have no credit score, or a low credit score based on accurate data?

Suggested reading: National Consumer Law Center, [*Full Utility Credit Reporting: Risks to Low-Income Consumers*](#), July 2012.

Pricing (5 minutes)

Marceline White, Maryland Consumer Rights Coalition

This session will explore how credit data is used to price various products. For example, insurance companies and other financial services companies now use credit data to price their products. The Consumer Federation of America has found strong evidence that income and credit scores correlate with higher auto insurance prices, suggesting that the poor are being asked to pay more because of their low-income status.

- How does credit data drive pricing? And in what sectors?
- What laws apply to differential pricing?
- How does this affect the social role of insurance as a tool to distribute risk?

Suggested reading: Maryland Consumer Rights Coalition, [*Low-Income Drivers and the Need for Affordable Auto Insurance*](#), January 2014.

Fringe Underwriting (5 minutes)

Steve Lohr, The New York Times

This session will focus on emerging underwriting practices. A growing number of fintech and other companies are using government records, social media data, and other nontraditional data sources to evaluate consumers for credit products. These new tools are often built with particular industries in mind, such as subprime auto lenders, retailers, or telecommunications firms.

- What kinds of products are new startup companies pitching? What promises are they making?
- What do we know about the predictive value of these new methods? Are they at all proven?
- Where is nontraditional credit data most commonly used?
- What are the fair lending challenges of these new methods?
- Do regulators have any role to play regarding these new underwriting methodologies? If so, what is it?

Suggested reading: Steve Lohr, [*Banking Start-Ups Adopt New Tools for Lending & Big Data Underwriting for Payday Loans*](#), *The New York Times*, January 18 & 19, 2015.

Data Brokers and Predation (5 minutes)

Pam Dixon, World Privacy Forum

This session will explore the connection between data brokers—which are most frequently discussed in the context of consumer privacy—and financial inclusion. The data broker industry collects an enormous volume of information on hundreds of millions of Americans. The Federal Trade Commission, the Senate Commerce Committee, and the Government Accountability Office recently released significant research detailing how these largely unregulated companies enable precision-marketing of consumer products to vulnerable individuals.

- What kinds of lists are data brokers selling to target vulnerable individuals?
- What do we know about the prevalence and uses of these lists?
- Are these lists covered by existing law?
- What regulatory solutions might help rein in predatory targeting?

Suggested reading: World Privacy Forum, [*The Scoring of America: How Secret Consumer Scores Threaten Your Privacy and Your Future*](#), April 2014.

Online Payday Lending (5 minutes)

Nick Bourke, The Pew Charitable Trusts

This session will explore what we know about the online payday lending industry. Revenue for online payday lenders tripled between 2006 and 2013. Today, approximately one-third of payday loans originate online. Online payday lenders often rely heavily on a unique and sophisticated infrastructure of marketers, advertisers, and data brokers. Lead generators—data brokers that collect and sell potential borrowers' information to lenders—play an important but largely underexplored role in the online lending ecosystem.

- How does lead generation work?
- How does it relate to existing online data brokerage channels?
- What online data sources support the online lending ecosystem, and what can regulators do about it?
- What are the implications for underwriting and privacy?
- How should the CFPB's upcoming efforts address online payday lending?

Suggested reading: The Pew Charitable Trusts, [*Fraud and Abuse Online: Harmful Practices in Internet Payday Lending*](#), October 2014.

The Role of Regulators (5 minutes each)

Peggy Twohig, Consumer Financial Protection Bureau
Chris Olsen, Federal Trade Commission

This session will focus on the role of regulators in addressing the problems identified in the prior presentations.

- Absent statutory changes, how can existing statutory and regulatory authorities be used to protect consumers and allow the growth of responsible industry models for evaluating creditworthiness?
- What has been the pattern of prior regulatory and enforcement action in this space?
- What do regulators have planned for the future?
- What issues require further research by regulators?

Suggested reading:

Consumer Financial Protection Bureau, "[CFPB Considers Proposal to End Payday Debt Traps](#)," March 26, 2015.

The Federal Trade Commission, "[40 Years of Experience with the Fair Credit Reporting Act: An FTC Staff Report with Summary of Interpretations](#)," July 2011.

11 - 11:15 a.m. Break and Move to Discussion Rooms

- Group 1: Hotung 1008
- Group 2: Gewirz 12th floor (stay in the room)
- Group 3: McDonough 110
- Group 4: McDonough 140
- Group 5: Hotung 1000

11:15 a.m. - Noon Small Group Discussions

Participants will break into small groups (each with a moderator and a note taker). The small groups will further discuss the issues raised in the morning sessions and identify potential research and policy priorities for regulators. Finally, participants will seek to identify regulatory priorities in small group discussions.

Noon - 12:45 p.m. Lunch & Small Group Reports

During lunch, each group will provide a 3-minute summary of their discussion to the full group.

Following lunch, participants are invited to attend the afternoon plenary session.