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A Public European Union Credit Rating Agency: The Politics of Creditworthiness and European Sovereign Debt

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Implicated in numerous financial scandals and fiscal misadventures, credit rating agencies (CRA) have managed to evade any serious regulatory capture. Now the European Union is exploring a structural solution which would disrupt the CRAs virtual monopoly on the production of authoritative knowledge surrounding creditworthiness: an EU CRA. However, as I argue, this proposition is fraught with perils which can only exacerbate the EU's capacity to effectively manage its sovereign debt crisis. Without a revision in the analytics of ratings, a public CRA is destined to entrench a fictitious dichotomy between uncertainty and risk in the construction of creditworthiness. The performative effect of this would reinforce its peripheral role as it subjects the EU to an artificial uniformity and undermines the legitimacy of the new agency as a credible alternative to the established big three CRAs.

Keywords: credit rating agencies; European Union; risk and uncertainty; financial governance; governmentality

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Introduction

Plagued by the persistent threat of or actual credit rating downgrade, such as Moody's relegation of Portugal's and Ireland's debt to junk status (Ba2 and Ba1, respectively), the European Union (EU) desperately is attempting to allay fears concerning eurozone disintegration. Amidst this sovereign-debt crisis, the EU published its 5 November 2010 consultation paper on credit rating agencies (CRAs). In it, the European Commission (CEC 2010a) identified an 'overreliance' on (often dubious) external ratings as a potential hazard which can destabilise financial markets and governments alike. Concerned about the lack of competition in the ratings space – three institutions dominate the market[1] – the EU is convinced that more actors and greater diversity would be advantageous. New entrants can enhance the transparency of the ratings process and, thus improve the quality of ratings themselves. Even the U.S.

has embraced reform with the removal of references or reliance upon ratings when it signed the 2010 Dodd-Frank Act (Section 6009) into law. Yet, whereas America remains ambiguous about how to effectively remedy this competition deficit, the EU is exploring structural solutions, including the establishment of a new public EU CRA (CEC 2010b). Is this proposal to reorganise the ratings space viable? Can it achieve the EU Commission's objectives of redressing some of the egregious elements of ratings and make the EU less susceptible to destabilising attacks?

This article answers both of the above questions in the negative. As tempting as it is to correct some of the imbalances and inconsistencies evident in ratings in the hope of curtailing their destabilising effects, the creation of a public body to monitor and assess the credit health of the EU is misguided. Rather than removing distortions from the market and restoring confidence in the capability of beleaguered Member States to adequately finance their obligations, I argue that an EU CRA can only infuse more uncertainty about the quality of ratings, heighten the dependence on external ratings, and undermine the EU's authority to manage the sovereign debt crisis. Although additional regulatory measures are required to compensate for the inadequacies of the current EU framework – Regulation (EC) No 1060/2009 (CRA Regulation) and the corresponding (EU) No 513/2011 CRA Amendment – this initiative can only make a bad situation worse.

Alternative forms of assessing whether a sovereign can fulfil its commitments to pay the principal or interest accruing on its publicly issued debt in a timely fashion, or the 'risk of default', are considered necessary but fraught with contestation (FSB 2010; European Central Bank 2011). New

measures might prevent Europe from being held hostage by what *Jürgen* Stark (*Reuters* 11 June 2010), European Central Bank (ECB) Executive Board member, has labelled as the 'irresponsible' and procyclical behaviour of a cabal of firms: Moody's Investors Services, Standard & Poor's (S&P) plus Fitch Ratings. Already implicated in numerous financial scandals, ranging from the 1998 Asian crisis to the 2003 fraudulent Parmalat debacle to the recent 2008 credit crisis, CRAs once again have found themselves in the eye of the financial storm (Partnoy 2006; Gamble 2009; Sinclair 2010; Mügge 2011). Seldom, however, has this litany of alleged abuses translated into a comprehensive and effective regulatory response. Only now, as the CRA onslaught undermines the very integrity of Economic and Monetary Union (EMU) itself, is the EU determined to correct this deficiency in financial governance. But is a public European CRA the right remedy?

To demonstrate how detrimental this proposal can be if institutionalised, the following argument proceeds along two tracks. In the first half of the article, two operational lines of argumentation reveal the practical hurdles facing this proposed agency. First, such an alternative would create a two-tier rating system. On the one hand, there are the private rating agencies, such as Moody's or S&P. On the other hand, a quasi-independent public entity would stand in opposition to these firmly entrenched oligopolists as it attempts to compete for market share and credibility. Unless market distorting regulations are introduced to level the playing field, this asymmetry can undermine the position of the new EU institution as a reputable alternative.

Second, I submit that there are apparent conflicts of interest when an EU-sponsored agency is rating the sovereign debt of its masters. No matter

whether it resembles ‘an Institution “d'utilité publique”, a Public Interest Company, a European foundation or a public-private partnership’, the optics of the EU assessing its own creditworthiness – even for a short duration – only fosters a sense of incredulity (CEC 2010b: 21). Together these factors would undermine the authority of the new EU CRA – relative to its private sector counterparts – and its capacity to manage effectively the sovereign debt crisis. ‘Cliff effects’ actually could prove more frequent and intense as yet another weak EU institution makes more incredulous claims about the health of distressed European economies.

In the second half of the article, I analyse the precariousness in an overreliance on third party assessments – whether issued by an EU agency or one of the big three CRAs – by problematising ratings to reveal alarming inconsistencies in their actual analytics and operations. Unfortunately, conventional International Political Economy (IPE) accounts lack the necessary analytical tools to adequately decipher how the tremendous leverage which CRAs exert over the politics of creditworthiness stems from their constitution of an infrastructure of referentiality underpinning sovereign debt. Sovereign rating ranges rest on a judgement about the extent to which politicians will subject their constituents to ‘tolerable’ costs of austerity/adjustment (Sinclair 2005: 138). However, this degree of exigency involved in fiscal politics does not lend itself readily to being captured as a statistical probability through the utilitarian calculus of risk (Knight 1921; O’Malley 2004; de Goede 2005). Political variables, such as a ‘government's payment culture’ (Standard & Poor’s 2007) or a regime’s ‘legitimacy’ (Moody’s 1991: 165), are fluid and fail to repeat themselves at regular intervals. Informal

judgement is necessary in their appraisal. Of course, as Johnson *et al* (1990: 95) remind us, subjective estimations are prone to 'serious inconsistencies' that produce 'bias ratings'.

To reveal how knowledge, as a susceptibility to vulnerable fiscal conduct and as a register of responsibility, is constituted and legitimated in the production of the fiscal subjectivities used in ratings, I excavate the governmental terrain of the politics of creditworthiness. By disturbing the perceived uniformity of risk as a governmental category, this article shows how, in large part, CRA authority is attributed to the misrepresentation and commodification of immeasurable (qualitative) uncertainties as probabilistically defendable (quantitative) risks. A false qualitative/quantitative dichotomy is promoted which obscures the role that contingent liabilities play in the construction of ratings. This poses serious consequences for EU and financial market stability.

Rather than reverse, an EU CRA actually can heighten the dependence on external ratings as it works to invalidate how competing notions of fiscal normality are ascertained and articulated. This impedes the practice of due diligence and sufficient internal credit risk assessment amongst financial actors. External ratings – primarily through their 'certification' role[2] – diminish the sense of urgency to replicate such tests; especially if they are deemed 'normal'. Consequently, external ratings inhibit the internalisation of self-regulation or regulation based on one's own circumstances.

As a socio-technical device, the performative effect of ratings – through their reiteration as an exogenous and tangible risk – is to impede the

endogenous responsibility of actors to manage their own uncertainty. Moreover, it cements the authority of Anglo-American market logics in the constitution of the politics of limits. Thus, this article helps us understand how the act of rating affects the ability of governments to establish the limits of the political within the economy. By adopting the prevailing model of rating sovereigns, an EU CRA can only help entrench this quantitative/qualitative distortion together with a continued overreliance on external assessments while it cedes sovereign authority to market forces.

Two-tier rating system

Breaking into any competitive market is an arduous ordeal. Penetrating the ratings space, however, is virtually unfeasible given the oligopolistic configuration of the industry. Moody's, Standard & Poor's and Fitch dominate the market. Of course, Sinclair has identified developing 'competition' as one of the three defining characteristics of the growth phase of ratings over the past decade – the other two being 'internationalisation' and 'innovation' (Sinclair 2010: 98). Niche specialisations are being carved out with firms like Dominion Bond Rating Service Ltd. (DBRS) of Canada focusing on global-corporates and structured finance, while Japan Credit Rating Agency Ltd. and Rating and Investment Information Inc. have set their targets primarily on Japan. Only three firms, however, can truly be labelled as global full-spectrum CRAs. Of these, Fitch remains a distant third in terms of prominence.

Broad in product diversification, the extent of their sovereign ratings dwarfs that of their nearest rival. Whereas by 2011, Kroll Bond Ratings rated a mere 59 sovereigns, S&P issued 126 sovereign ratings, Moody's 112, and

Fitch 107 (Kroll 2011; Moody's 2011; S&P 2011c). Extrapolated to the broader context, the scale of this dominance becomes even more unequivocal. In 2009, the US Securities and Exchange Commission (SEC) calculated that the big three CRAs were responsible for a staggering 97 per cent of all outstanding ratings across all categories (SEC 2009). What has unnerved governments around the globe – but especially in Europe – is the reckless use of authority which CRAs derive from this oligopoly. Under the current conditions, however, ratings issued by an EU CRA would not displace the hegemony of the big three. A two-tier rating system is most likely to develop – with an EU CRA playing a peripheral role.

Arguments in favour of increased competition and diversity of ratings are essentially without opposition (CEC 2010a; FSB 2010; IMF 2010; ECB 2011). By definition, monopolies are inefficient (Friedman 1962/1982). Now the painstaking task is to determine how to effectively enhance participation – preferably through private entities – and disturb the privileged position that CRAs enjoy. Reducing barriers to entry is one approach. The 2010 CRA Amendment compels issuers of structured finance vehicles – banks or other financial institutions – to grant agencies they do not employ access to their data. Transparency may be heightened as the amount of ratings issued grows. As promising as this orthodoxy sounds, however, it neglects two fundamental elements implicit in the current configuration of the ratings space.

First, the reputational capital that smaller-sized CRAs need to build in order to effectively steal market share and clout away from Moody's or S&P is tremendous. As a social construction, 'reputation', as Power (2007: 129) posits, connects questions of legitimacy and authority with organisational

identity. It involves ‘creating an account of an organization, embedding that account in a symbolic universe, and thereby endowing the account with social facticity’ (Rao 1994: 31).

The historical roots upon which the reputational dominance of the big CRAs is established can be traced as far back as 1860. Henry V. Poor’s was one of the first to systematically cater to a growing hunger for more precise information on the health of American business and infrastructure with his publication *History of the Railroads and Canals of the United States of America* (Standard & Poor’s 2009a). *Manual of the Railroads of the United States* was released shortly after in 1868, which documented ‘their mileage, stocks, bonds, costs, earnings, expenses, and organizations; with a sketch of their rise, progress and influence’ (Poor 1868). John Moody soon entered the fray with his 1900 *Manual of Industrial and Miscellaneous Securities* (Moody’s Investor Services 2010). Faced against such goliaths, the best that new entrants can hope for is to excel in a niche market. After all, private actors are not concerned with performing a public good as much as surviving and profiting. Even if one or two manage to ascend and become recognised globally as reputable CRAs, this will not happen overnight. Before that status may be attained, this market distorting oligopolistic configuration will continue to subject the EU and financial markets to destabilising forces.

Second, the problem is not one of quantity of ratings as much as it is their suspect quality. As the second half of the article develops, the continued adherence to a fallacious analytics of ratings promotes an overreliance on external, exogenous forms of assessment. Here the endogenous responsibility of market actors to manage their own uncertainty is stunted.

Simply more of the same dubious practices fails to redress the most egregious elements of ratings. In fact, the scale of 'reiterated and citational' ratings can only serve to enhance their ubiquity as a socio-technical devise. As their circulation grows, their capacity as 'embedded knowledge networks' is further legitimised (Sinclair 2005: 15). In the process, critical (that is political) judgement will continue its depreciation as credibility and authority are increasingly predicated on the calculus of risk. Quality itself, however, is compromised by the infusion of additional CRAs into the market. Studies reveal that the greater the numbers of CRAs, the lower the rating quality/higher ratings since companies have more options to shop around for a favourable appraisal (Becker and Milbourn 2010).

If the hurdles facing new private entrants are daunting then what alternatives are available that can challenge the oligopoly of the big three CRAs? Notwithstanding the Commission's inquiry into its foreseeable role, the ECB has flatly rejected any suggestions that it should issue ratings for regulatory purposes (ECB 2011: 7). Hence, is the only real option remaining a new public EU CRA? Endorsed by the EU, this quasi-independent public entity may command the attention of markets – relative to its smaller private counterparts – given its size and available resources. But this patronage surely can diminish any credibility which it seeks to establish. A substantial degree of independence is essential for it to be successful.

The retention of this necessary degree of autonomy is very much in doubt; even by the ECB (2011: 8). Many of the same dilemmas involved in building reputational capital, which plague the smaller players in this space, resonate here. Credibility is an 'imaginary' constituted by discursive and

technical practices that validate a particular vision of what is considered valid (Larner and Le Heron 2002). Expertise mediates this representational process through the deployment of calculative techniques (Miller 2001). In the ratings space, I argue that this process is consistently aligned with a (probabilistic) utilitarian calculus of risk. Technical expertise, as Sinclair (1995: 454) reminds us, gives the impression that CRAs 'disavow any ideological content to their rating judgements'. Devoid of 'interfering variables', such as human discretion, the calculation of an indeterminate future becomes tractable to the kind of rational choice modelling underpinning risk management (O'Malley, 2004: 16).

In sharp contrast, the politically charged EU is a hotbed of ideological temperaments (Schmidt 2002). To be regarded as credible, the EU CRA would be under immense pressure to subscribe to the prevailing mentality and methods favoured by financial markets. Rather than penetrating the seemingly hermetic enclosure of the ratings space in order to 'test the limitations and the exploration of excluded possibilities', this would signal capitulation (Ashley and Walker 1990: 263). With all the capacities and independence of a CRA, this EU agency, in fact, would metamorphose into a Moody's or S&P.

Averse to being perceived as a puppet of its political masters and hesitant to adopt the very techniques which it seeks to redress, an EU CRA can strive to select a competing modality according to which creditworthiness may be assessed. As a 'knowledge entrepreneur', however, its chances for success are rather minimal. First, as I argue below, the inertia of risk management works to exclude alternative forms of expertise which are not based in probabilistically quantifiable formulas. Second, there is no guarantee that firms and sovereigns would gravitate automatically towards an EU CRA.

Reputations are fragile. The ambiguity associated with this novel entity can be regarded as dangerous. After all, few things are as concise as a triple-A rating. Why undermine one's own standing by adopting experimental ratings?

Resistance to change can be great. External ratings help manufacture and validate reputations as they implicate them in authoritative relations that steer subjects according to specific risk vectors. All the ratings, 'league tables, rankings, and indices construct self-reinforcing circuits of performance evaluation, thereby perpetuating the internal importance of externally constructed reputation and giving to reputation a new governing and disciplinary power' (Power 2007: 141). Lacking the reputational capital to disturb and reconstitute these embedded notions of credibility, EU CRA issued ratings can only be of secondary significance. Unless market distorting regulations are introduced to level the playing field, this asymmetry can create a two-tier rating system. As opposed to mitigating uncertainty, this strategy can only raise more doubts about what counts as authoritative knowledge in the sovereign debt crisis, which can impede its effective management.

Conflicts of interest

Inflated ratings are a concern that the EU has linked to the prevailing 'issuer-pays' business model (CEC 2010a: 26). Conflicts of interest may surface because CRAs have a vested, financial interest in issuing generous ratings in order to drum up business. Poor ratings adversely impact their revenue stream; whereas higher assessments are thought to attract more clients and generate richer profits. Particularly 'virulent regarding the rating of structured finance instruments', such as credit derivatives, the inflation of

creditworthiness is not internalised by the CRA but by misguided investors (CEC 2010b: 5).

Now whether this fear of a conflict of interest is actually warranted is debateable. In theory, it sounds menacing. But in practice it may only resonate with the smaller-sized or a public CRA eager to penetrate the market. Moody's and S&P, in particular, are so well entrenched that they are virtually immune from being held hostage by rating shoppers (Sinclair 2003: 149). In 2010, S&P Ratings and its parent McGraw-Hill Financial generated revenues of US$2.9 billion while rating in excess of US$32 trillion in outstanding debt (S&P 2011b). Revenue manipulation is also unlikely at Moody's Corporation (2011), which reported revenue of US$2.03 billion in 2010; with revenue up 21 per cent to US$577.1 million for the first quarter of 2011. Approximately 90 per cent of this income is derived from issuers fees (Partnoy 2006: 69). For corporate debt, S&P charges up to 4.25 basis points for most transactions; with a minimum fee of US$70 000. Fees for sovereigns range from US$60 000 to US$100 000 (S&P 2009b: 2). Moreover, as Frank Partnoy (1999) contends, rating agencies have an incentive to preserve and maximise their reputational capital. Optics of impartiality are pivotal to enhancing rating prestige and the authority of their franchise. Credibility is difficult to attain but easy to lose.

Grade inflation

Profit-maximisation may not be a top priority for an EU CRA but the circulation of its ratings and its market share undoubtedly would capture the agenda. To

build its clientele base, the new agency would have to lure issuers away from the likes of Moody's or S&P. Grade inflation is a low cost and highly effective strategy for this objective. Drastic differentials are not necessary as only one notch or a more favourable outlook may be sufficient to attract business. As an EU-registered CRA, this practice would receive the endorsement of the new European Securities and Markets Authority (ESMA) without any serious regulatory scrutiny.

A certain degree of inflation is reasonable to expect given the incipience of the enterprise. Without either a defined corporate culture or experienced personnel, the nascent stages of a public CRA can be an arduous ordeal characterised by trial and error. Coupled with the imperative that it distinguishes itself from the established regime, an EU CRA can be prone to overzealous ratings in either direction. Of course, with so much uncertainty surrounding the actual meaning of these new ratings, their appeal would be speculative and susceptible to wide swings in volatility. Whether issuers would be inclined to surrender the security of the current classification system and risk aligning something as vital as their creditworthiness with the ambiguity of a nebulous CRA is very much in doubt. Markets detest the opaque quality of managing through uncertainty.

Unsolicited ratings

In light of the potential for conflicts of interest, an EU CRA can be vulnerable on another front. A two-tier rating system may compel it to intimidate issuers into subscribing to its ambiguous service in order to remain relevant. By obligating issuers of structured finance securities to grant all interested CRAs

access to their books – rather than simply those which they appoint – the CRA Amendment hopes to promote the issuance of unsolicited ratings. Multiple assessments, however, do not guarantee an improvement in the quality of ratings. Rectification, as I suggest, is commensurate with a revision of the analytics of ratings.

There is also a dark side to unsolicited ratings. Highly controversial, these unrequested accounts can be deployed to pressure issuers into subscribing to a service. Otherwise known as 'push' conflicts, CRAs have been investigated by the US Department of Justice over the past decade for the use of such coercive tactics but never prosecuted. Partnoy contrasts this antagonism to that of the securities analyst where 'conflicts are "pull" conflicts in which the analyst dangles the prospect of favorable ratings to obtain future fees, whereas the rating agency conflicts are "push" conflicts in which the agency threatens the issuer with unfavorable ratings to obtain fees now' (Partnoy 2006: 72). If denied access to management or inside accounts, the accuracy of these unsolicited accounts is questionable. This threat is only amplified by the lack of competition in the ratings space.

Amongst the more notable European cases involves the German reinsurer Hannover Rückversicherung AG. Unsolicited accounts began to be published by Moody's after the rating agency was snubbed in favour of S&P and Fitch. Attributing 'very limited additional value' to a Moody's rating, continuous refusals to purchase said rating only precipitated further downgrades (Hannover Re 2001). Throughout this debacle, S&P and A.M. Best still awarded Hannover Re their second-highest rating of double-A and A-plus, respectively. By the time that Moody's assigned the German reinsurer

a speculative grade in 2003, US$175 million of its share value was decimated (Partnoy 2006). Eventually, Moody's raised its rating only to announce in August 2008 that it would cease covering the company for 'business reasons'. Accused of being 'high-handed', Moody's defended itself in typical fashion (Sinclair 2010: 98). It was simply issuing 'opinions' – a right which remains constitutionally protected. While overt 'extortion' of the kind practised by Moody's is not foreseeable, a public EU CRA may deploy unsolicited ratings in a coercive fashion in order to increase their circulation.

Rating one's own debt

Without doubt, where a conflict of interest is most egregious is in having an EU-sponsored CRA assess the creditworthiness of the very sovereign governments with which it is affiliated. Irrespective of the claims of independence uttered by the Commission, rating the debt of its masters would strip a quasi public/private EU CRA – together with the issuing Member States – of any credibility and would only aggravate the debt crisis. Financing obligations would be severely impaired as markets disregard this certification as a farce. The infusion of uncertainty would drive credit-default swap (CDS) spreads – a popular measure of the market price of creditworthiness – even higher (IMF 2010: 105). Abuse of this kind is self-sabotage. The backlash to such an overt politicisation of the ratings practice would transfer even more authority to the big three CRAs to decide what constitutes as the politics of limits surrounding sovereign debt.

All of this points to a catastrophic conundrum. On the one hand, a fundamental ambition of the EU is to reduce an overreliance on volatile and

fickle (external) credit ratings. As an alternative to the big three CRAs, an EU CRAs might inject more competition into the ratings space. Yet even the ECB (2011: 8) questions if this proposal would indeed enhance competition or whether a 'semi-public agency' would only erect 'artificial barriers to entry' and choke-off private rivals. On the other hand, optics of impartiality are a prerequisite for the viability of any CRA. Otherwise, the entire enterprise is parodiable. As I suggest, credibility is a precious commodity in the construction of reputation. A blatant conflict of interest, such as rating one's own debt, can only serve to undermine this new institution and European attempts to effectively manage the sovereign debt crisis.

Compromised credit ratings no longer act on Member States in the same capacity to control them into compliance. Their performative effect is distorted. Rather than promoting fiscal responsibility, an EU CRA may in fact encourage greater profligate conduct. As fiscal subjects, issuers are intimately linked to a regulatory process of ratings whereby they seek to maximise their reputational capital in the aim of minimising the costs associated with financing their debt. Implicated in economic definitions of legitimacy, issuers internalise external metric elements that render them as performance variables, 'thus helping to create the calculating self as a resource and an end to be striven for' (Miller 2001: 381). A calculative logic is cemented in both subjectivity and the act of government which repudiates budgetary indiscipline. When that leverage is disturbed and reputational capital readily obtained, it can inhibit the internalisation of fiscal self-regulation among governments. Unless Member States are convinced of the merits of austerity, their

ballooning expenditures will expose them to a higher chance of default; thereby aggravating their own crisis.

Analytics of ratings

Although alternative forms of appraising the creditworthiness of sovereigns is an ambition of the EU, arguably, its ability to select a competing modality can be severely impaired by its need to build its reputational capital so that markets actually pay attention to it. Even if it is forced to mimic the dominant CRA trio, who exactly does it emulate? To 'capture both capacity and willingness to repay debt...a synthesis of qualitative measures and qualitative judgements' is necessary (ECB 2011: 3). But determining 'default' itself remains contested, with Moody's (2008) privileging expected loss and the ability to pay while S&P evaluates default probability along with the willingness to pay and Fitch relies on some aggregation of the two. Of course, the amalgamation of these qualitative and quantitative techniques remains distinctively opaque since, as S&P concedes, 'there is no formula for combining these scores to arrive at a ratings decision' (Standard & Poor's 1992: 15). Nevertheless, irrespective of the admitted 'singular nature of sovereignty', there are still 'continuous efforts to make the analysis more quantitative' (Moody's Investor Services 2008: 6).

Mimicking methods that attempt to transform (singular) uncertainties into (aggregate) pools of risk can only make the EU complicit in their misrepresentation. This has two ramifications. First, as the degree of contingency inherent in their constitution is masked, ratings institutionalise a form of dysfunctional information exchange. Given the false sense of

confidence about the reliability of the data instilled by this practice, an EU CRA can expose Europe to the threat of further financial and fiscal failures.

Second, inextricably connected to the social construction of (fiscal) normality as a statistical probability, is the growing importance of ratings themselves in the organisation of global finance (Sinclair 2005; Partnoy 2006; IMF 2010). With the internationalisation of finance (Germain 1997; Porter 2005; Posner 2009), ratings are rising in prominence as a technology to address the problem of asymmetric information between issuers of debt and investors. This ascendance amplifies their consequential authority and, thus the adverse effects of any misguidance and erroneous information. Such is the case because the salience of ratings derives not from some underlying reality which they purport to describe, but from the belief that they matter (Sinclair 2010: 92). Ratings have performative effects.

In large part, the authority of ratings is commensurate with how well they eliminate the perception of imperfect information, which prevents convergence around single notions of normality. Orthodoxy dictates that the more supposed uncertainty that they replace with risk, the more consequential they become as they aggregate around an expected value. Conflation and clout exhibit a positive relationship. To dispel this dangerous inconsistency, the analytics of ratings are problematised to reveal how – in addition to risk management – CRAs deploy uncertainty-based techniques to modulate the discursive construction and legitimation of authoritative knowledge underpinning sovereign debt.

Government through risk and uncertainty

An exposition of uncertainty and risk's intellectual lineage helps us to recover the diverse and contested meanings indicating how indeterminate fiscal relations are imagined for the purpose of governance. Imperfect information is a problem which has preoccupied thinkers well before the European sovereign debt crisis or even post-war liberal capitalism. Economist Frank Knight (1921/1964) claimed that uncertainty is the inescapable reality of entrepreneurialism. 'Unique' business situations demand and reward 'correct judgment' rather than prize statistical calculations (Knight 1921: 227). Experience instils a level of confidence about the decision-making process as uncertainty hinders expected utility-maximisation. In other words, uncertainty is not reducible to risk. Social 'devices' (for example insurance) are created to help facilitate profit maximisation when informational constraints prevent assigning a probability distribution to an outcome given its unique and contingent circumstance (Beckert 1996: 830).

This challenge to the orthodoxy of liberal economics found a sympathetic audience in John Maynard Keynes (1921/1973). Although uncertainty is a constant facet of economic activity, definite numerical probabilities cannot be assigned to outcomes because agents lack a clear notion of the possible consequences of their actions. For Keynes, the probability of a hypothesis is derived from its available evidence. Under uncertainty, however, the 'evidence justifies a certain degree of knowledge, but the weakness of our reasoning power prevents our knowing what the degree is' (Keynes 1973: 34). The epistemological dimension implicit in the qualitative comparison of propositions prevents knowing what causal relations maximise utility. This jeopardises the rational actor modelling of a predictive

Pareto-efficient equilibrium. Ian Hacking (1975: 73) agrees that numerical measures of incidence are incapable of adequately forecasting epistemic probability.

Seldom problematised, however, uncertainty and risk often are treated as self-evident or monolithic. Distortions such as this are propagated by mainstream IPE. As a by-product of modernity, uncertainty is either conceptualised as an 'incalculable risk' to be feared, as espoused by the 'risk society' thesis (Beck 1992; Beck, Giddens and Lash 1994), or celebrated (Bernstein 1998). Advancements in technology and enhanced information supposedly enable experts, such as rating agencies, to patrol the margins of indeterminacy and increasingly translate more contingent events into statistical probabilities making them tractable to rational choice modelling and equilibrating outcomes (Reddy 1996).

Adherence, however, to the risk doctrine is fraught with more difficulty than first recognised. Granting objectivity to 'statistical correlations between series of phenomena' with the ambition of regularising fiscal activity neglects three vital aspects of governing through risk (Castel 1991: 284). First, risks themselves are 'conditional' because they fulfil a specific objective that is predefined. As such, irrespective of the contentions of neoclassical economists (Hardy 1923; Whitley 1986; Short 1992), risks do not exist devoid of a particular context or problematic. Two, risks are 'reactive' since future forecasts hinge on the circumstances which precede them and their interpretation. For David Garland, 'extrapolations from past experiences are always inferences from a limited data set using premises (about cause and effect, about factors involved, about *ceteris paribus*) that may be disproved by

subsequent events' (Garland 2003: 53). Lastly, the degree to which individuals and institutions expose themselves to potential hazards varies as risks are 'interactive' (*ibid*, 55). How risk prone someone is depends on the perception of their capacity to tolerate the unwanted outcome. John Adams (1995) refers to this as one's 'risk thermostat'.

With an affinity for what Bill Maurer (2002: 29) identifies as the 'fetishization of the normal distribution curve', conventional accounts betray their 'desire to replicate the prescriptive and predictive success of the hard sciences and a belief in the infallibility of rationalist-empirical epistemology' (Jarvis and Griffiths 2007: 17). Predictive positivism of this sort is often blind to the contingent nature of political economy. Whether or not objective knowledge is acquired as a capacity for future fiscal behaviour is a misplaced enquiry. Given their permanent state of virtuality, the ontological totality of risks is rendered peripheral (Van Loon 2002: 2).

Instead, attention is devoted to understanding how the governmental rationalities underpinning European sovereign debt are framed and articulated in these terms. What is visible is the deliberate discounting of the degree of contingency involved in the construction of ratings. This reinforces the discourse of risk in the definition of the politics of limits surrounding fiscal relations. Its performative effect is to validate a self-systemic, and thereby self-regulating, logic of Anglo-American versions of capitalism as the norm; whereby political discretion is marginalised in favour of normalising mathematical models.

As a new analytical instrumentality, I contend that the governmentality approach (Foucault 1991; Dean 1999; de Goede 2004) helps us come to

terms with how ratings, as a discursive practice, produce an authoritative capacity to act on market participants by promoting a false quantitative/qualitative dichotomy between risk and uncertainty. No longer are we saddled with the burden of adhering to a rigid binary opposition between risk and uncertainty; where the former is defined as a calculable measure of variance around an expected value while the latter escapes being captured as such a statistical probability (Hardy 1923; Short 1992). Agendas intent on rendering regularities probabilistic treat fiscal relations as an unproblematic and incontestable reality to be unearthed. Certainty equivalence is taken for granted given that risk is presented as a defendable process (Malinvaud 1969). But neither risk nor uncertainty is inherently more or less abundant during the sovereign debt crisis. Thus, rather than subscribing to the dubious qualitative (uncertainty) versus quantitative (risk) distinction privileged by mainstream IPE, an analytics of government provides an enhanced understanding of how CRAs mobilise uncertainty and risk as modalities in the discursive construction and legitimation of sovereign debt in Europe. Here credit ratings are regarded an internal form of governmentality underpinning budgetary relations as opposed to brute facts.

'Neither real nor unreal', risk and uncertainty are considered modalities of governance –'ways in which the real is imagined to be by specific regimes of government, in order that it may be governed' (O'Malley 2004: 15). From this governmental perspective, ratings code Member States as specific objects of government. They render the problem of budgetary profligacy intelligible as a particular form of reason, aligned with perceptions of contingency and normality, and interwoven into the political imagination and

discourse of Member States. As Hacking (1990) reminds us, knowledge as statistics translates economic relations into a manipulable field for management. In other words, an analytics of government helps us unpack how CRAs deploy a set of uncertainty and risk-based discursive practices in the constitution of sovereign debt as a problem of government.

Construction of fiscal normality

A public EU CRA would have adverse consequences as it entrenches a skewed analytics of ratings. Here a supposedly exogenous reality – populated by aggregable and probabilistically quantifiable frequencies denoting the risk of default – is promoted. In turn, this is juxtaposed against an ontological domain where the probabilities are too low to calculate given their unique and contingent circumstances. Ratings reinforce the inertia of risk discourse (Power 2004) as they strive to establish a single notion of fiscal 'normality' as a template against which other modes of governance are evaluated; including uncertainty. Unfortunately, this utilitarian/ economistic approach accepts only one account of reason; thereby invalidating any alternatives.

Normality is central to steering organisational thinking and societal practices. In *The Taming of Chance*, Hacking (1990: 6-8) provides a philosophical analysis of the multiple ways that truth-or-falsehood may be formulated for the purpose of social control. Determinism was subverted by laws of probability. Central to this argument is the invention of normality. Often defined in opposition to the pathological by scholars like Émile Durkheim (1895/1982), according to Hacking (1990: 169), it has become one of the most fundamental inventions of modern time. Although other versions of normality

may portray it in a teleological fashion (for example Comte or Galton) – as an ultimate end to strive for – it is Hacking's account that is more pertinent to the current discussion of the role of ratings in fiscal politics.

As Member States veer away from a prudent budgetary path, some form of restitution is necessary. Excessive deficits must be brought under control given their negative externalities. Subsequently, we reorient ourselves in reference to this classification dubbed 'normal'. If anything, however, Europe's numerous fiscal troubles – ranging from the 2003 Stability and Growth Pact (SGP) crisis to the current sovereign debt woes – have demonstrated that subscribing to a single design of normality is impossible when dealing with such a multifarious and factional socio-political creation as the EU. A universal definition of creditworthiness seems artificially uniform when such variegated conceptions of a normal budgetary conduct persist. Represented as a probabilistic distribution of risk, normality divorces ratings from the messy world of fiscal politics. Its status as 'one of the most powerful ideological tools of the twentieth century' only exacerbates this inconsistency (Hacking 1990: vii). A preferred approach is to explore the heterogeneous justifications and critiques that allow us to think in terms of these categories in the study of fiscal relations. Herein lies the advantage of an analytics of government.

Because of the diversity and variability implicit in EU fiscal relations, local knowledge of national political economies becomes ever more crucial in estimating creditworthiness. How much 'pain' the Greek or Portuguese populations are willing to tolerate, as austerity measures are implemented, differs from the threshold of the Dutch or Germans. Yes, 'U.S. agencies

acknowledge the legitimacy of local knowledge but from within the context of a highly centralized system of global comparison, premised on instrumental, synchronic knowledge', which is especially conspicuous 'when it comes to "credit-related political fundamentals"' (Sinclair 2005: 148). Variegated notions of normality and differentiated ratings are not accommodated by the aggregating techniques of risk. Such analysis would preclude the 'narrow rating range' for which Moody's strives; even though the company admits that 'the unusual characteristics of a sovereign credit may not be fully captured by this approach' (Moody's 2008: 1).

Upon closer examination, the differential assessments involved in the construction of sovereign credit ratings demand an assortment of templates articulating the norm. The scenarios that CRAs employ for peer comparisons produce varying results that are much too unique to be captured as a statistical regularity and equated across national contexts and time. Standard and Poor's (2011a) accounts for the 'potential for war, revolution, or other security-related events to affect creditworthiness.' Not only is the infrequency of these events probabilistically problematic but so is gauging and comparing public appetite for conflict. How is the 'contingency planning' (S&P 2011a) of a government analysed if not through contingent frames?

Substantial degrees of heterogeneity are also evident in the 'steps' that Moody's takes in the determination of a sovereign bond rating. In the first instance, 'economic resiliency' is based on the 'quality of a country's institutional framework and governance' – including nebulous and contingent factors like the 'predictability of government action' and 'the degree of consensus on the key goals of political action' (Moody's 2008: 2). 'Tolerability'

of adjustment costs (Factor 3) only compounds devising a standardised norm against which 'government financial robustness' can be measured (Moody's 2008). Moody's and the Commission both acknowledge that sovereigns are 'special' given their:

> exorbitant privilege of taxation, a very high probability of survival (countries rarely disappear), a lack of superior judiciary authority to make debt resolution predictable and a limited sample skewed towards very high ratings for which there is almost no experience of default. (Moody's 2008: 5)

As a result:

> it is difficult to deconstruct what is 'pure' probability of default and what is pure 'loss severity' at times of default. In fact, this is almost impossible for countries that are high in the rating spectrum (unless there is a clearly discernible, yet unlikely, default scenario). (Moody's 2008: 5)

Nevertheless, irrespective of the 'singular nature of sovereignty', there is a consistent attempt to translate qualitative elements into quantitative analysis (Moody's 2008: 1-6). Sensitivity to the heterogeneity of EU budgetary politics diminishes unless expressions of expertise acknowledge uncertainty as a modality in that which is being assessed (Member States) and in the assessment itself (sovereign ratings). Of course, this is not to discount that part of this problematic involves some convergence around normative fiscal anchors (Dyson 2008: 19). But attempts to marginalise human discretion only impose an artificial normality on the European fiscal landscape.

Authority and performativity of ratings

Unfortunately, these debates about the definition of what normality 'is' often neglect what normalcy 'does'. In other words, what are the performative effects of conceptualising normality as a statistical regularity? What forms of

authority are rendered visible in the deployment of ratings? How does this affect fiscal relations? Through an interrogation of the epistemological foundations of rating practices, governmentality provides us with a comparative normality underlying the constitution of creditworthiness. Rather than searching for certainty equivalence in the composition of national governments where none exists, a more revealing enterprise is to dissect how the problem of fiscal profligacy is represented for the purposes of government (Miller and Rose 1990; Foucault 1991; de Goede 2005). After all, ratings are at once descriptive and performative. Their salience derives not from some inescapable logic or ontological reality but from their exposition of the intellectual apparatus deployed to render fiscal politics thinkable in terms of its susceptibility to governmental intervention.

How appropriate budgetary conduct is represented becomes a constitutive element in the legitimation of the calculative practices that regulate this space as well as the subjects within it. If the assessment of 'normal' fiscal practice is increasingly equated with the modality of risk, then risk becomes the more hegemonic discourse. Mapping out how ratings, as a discursive practice, are involved in the problematisation and management of budgetary conduct is significant because it disturbs the notion of the EU as an immobile and unified structure whose properties can be unearthed through probabilistic techniques. We are then in a more suitable position to recover the changing meaning of fiscal normality with its identifiable parameters, power systems, and mentalities of rule. The temporary stabilisations that result are neither uniform nor constant but historically contingent and contestable. Thus, the performativity of uncertainty practices 'is not to

represent what was previously unrepresented, but try and reorganise the circulation and control of representations' (Mitchell 2007: 267). As the contingent liabilities involved in ratings are rendered visible, it becomes evident that fiscal relations are assessed and managed through uncertainty according to variegated categories of normality.

Arguably, this is more than simply a reflective role. Michel Callon (2007) and Donald MacKenzie (2006: 16) both argue that financial technologies of representation have a performative character in that they construct the reality which they seek to describe. The performativity of ratings connects their action to authority. By recognising how discretionary conduct informs the production of ratings, we come to a better understanding of how uncertainty acts as a 'boundary object' immanent in the constitution of EU fiscal subjects/objects of government. An assemblage forms known as the 'EU', which is 'simultaneously and inseparably a machinic assemblage and an assemblage of enunciation' (Deleuze and Guattari 1987: 504). It grants ratings an authoritative logic – or leverage – to act on Member States. This pressure to normalise around neoliberal market precepts corresponds to the perceived level of 'objectivity' assigned to these ratings. A higher perception of verisimilitude garners them more authority, which increases the reliance on external ratings. Conversely, biased assessments receive little attention. What is problematic, as this article argues, is that this authority is based upon a misrepresentation of immeasurable (qualitative) uncertainties as probabilistically defendable (quantitative) risks and a promotion of their false dichotomy. An EU CRA would only exacerbate this obscuration of the contingency of liabilities.

Authoritative capacities

How this transpires is better understood through an analytics of government which helps us connect the definition of boundaries to the mechanisms that embed them in the European political economy. An appreciation is gained for how authority, as a productive force, flows in localised sites to establish Member States as fiscal subjects/objects of government in the construction of the politics of limits. Whereas risk is more aligned with forms of control, government through uncertainty has affinities with 'governmentality' – the 'conduct of conduct' – which works on freedom in the construction of self-regulating subjectivities (Foucault 1991; O'Malley 2004). Understood in relational terms, these systems of authority often overlap thereby precluding a strict binary opposition in their delineation.

How EU subjects strive to adhere to specific risk ratings, designed in the name of normality, is shaped by the very power relations in which they are embedded. Post-disciplinary logics of 'control' acknowledge that failure is possible across multiple sites of this EU space (Deleuze 1995: 169-176). Member States are envisioned as 'misfits' who are at risk of sabotaging the fiscal framework. Their profligate propensities must be curbed at all sites of potential deviation. Here authority 'is based upon a dream of the technocratic control of the accidental by continuous monitoring and management of risk' (Rose 1999: 235). Regimes of control are concerned with *modulation* by anticipating 'possible loci of dangerous irruptions through the identification of sites statistically locatable in relation to norms and means' (Castel in Rose 1999: 235). The propensities of Member States to fail and uphold their debt

obligations are established through codes like ratings, accounts and feedback loops. Therefore, the objective is to regulate deviance rather than to reform the actor. The subsequent normalisation endows credit ratings with a temporal ‘stability’ and ‘objectivity’ which they would not possess otherwise.

Fiscal sovereignty, however, only can accommodate an artificial uniformity that has no bearing in reality for so long before unsuspecting forces are unleashed that can destabilise the EU. What is crucial to recognise is how the problem of fiscal management is also framed along vectors of uncertainty rather than just risk. On the one hand, the complexion of fiscal politics is such that it relies on and leverages the productive capacity of the population. Subjects are called upon to exercise their entrepreneurial creativity to generate economic growth, increase prosperity, and thus avoid default. Governmentality maximises this action rather than dominating conduct (Foucault 1979: 20). For this purpose, the internalisation of self-regulation – according to one’s own circumstances – is promoted to achieve governmental objectives. If the EU wishes to curtail profligate behaviour, then it must act on the capacity of governments as discretionary actors; namely governing through uncertainty.

On the other hand, through uncertainty, rating agencies mobilise the perception of contingency implicit in these fiscal relations to construct notions of normality according to which creditworthiness is assessed. Proper appraisals, however, demand that CRAs are cognisant of how Member States themselves deploy uncertainty practices to manage their own political economies. Otherwise, their assessments are incomplete. But this knowledge cannot be acquired through technologies of risk. Uncertainty includes risk but

not vice-versa. Informal judgements may incorporate statistical probabilities but the latter strives to exclude discretionary variables. Since standardising contingency is impossible, it is essential to recognise how variegated notions of normality underpin the construction of (differentiated) sovereign credit ratings. Resiliency – 'the ability of the sovereign to face adverse economic, financial and political events without having to impose an intolerable economic sacrifice on its population' (Moody's 2008: 6) – cannot be determined through quantitative techniques alone. Attempts to do so distort qualitative elements as quantitative indicators and perpetuate a false degree of verisimilitude that can jeopardise the stability of public finances and financial markets.

The performative effect is to privilege an exogenous reality outside of the discursive constitution of the EU. Optics of objectivity – no matter how dubious – are reinforced by the defendable process of risk calculus (Power 2004: 11). Ostensibly, this works to shield technical knowledge, such as ratings, from contestation by removing it from political debate. Technologies of risk strive to control performance by ensuring that discretionary misconduct is mitigated and the discourse depoliticised. Such a mentality is noticeable in the push to increase the surveillance authority of risk through measures like credit-scoring systems (Leyshon and Thrift 1999), reputational metrics (Power 2007) or sovereign credit ratings (Sinclair 2005). Their commercialisation only amplifies their authority.

As exogenous, quantitative techniques rise in ascendance, they promote an overreliance on external ratings. Critical judgement is relegated as relatively inferior and prone to bias. Instead of inducing the internalisation of self-regulation and enhancing internal control, an EU CRA can only transgress

the EU's very own objectives as it heightens the mechanistic dependence on external forms of assessing creditworthiness. Accountability is undermined as external ratings divorce CRAs from the consequential effects of their products. According to Marieke de Goede, the 'increasingly mathematical and depoliticised nature of risk models displaces responsibility for financial decision-making' (de Goede 2004: 213). She draws on Niklas Luhmann who argues that understanding 'misfortune in the form of risk…immunizes decision-making against failure' as it is justified by a battery of instrumentally rational and supposedly 'objective' criteria (Luhmann 1993: 13). Attributing authority to ratings, as Dieter Kerwer (2005) reminds us, without questioning their source of its legitimacy is a dangerous precedent. This slippery slope can have severe repercussions as the right to decide what constitutes as fiscal normality increasingly becomes concentrated in the hands of an unelected cabal of oligopolists. Market forces dictate and governments capitulate.

Conclusion

This paper problematises the European Commission's proposal to reorganise the ratings space by establishing a public EU credit rating agency. Designed to inject greater competition into the industry, an EU CRA would rival the oligopolistic trio of Moody's, Standard and Poor's, and Fitch in the production of authoritative knowledge underpinning sovereign debt. At least that is the ambition. However, as I argue, rather than disturbing their virtual monopoly in the constitution of creditworthiness, a public CRA would have the opposite effect of reinforcing the discourse of risk and heightening the dependence on external ratings. Without a revision in the analytics of rating, competing

notions of fiscal normality derived from discretionary/uncertainty-based practices are invalidated in favour of a calculus of risk. Deliberately discounting the degree of contingency implicit in their ratings, CRAs attempt to divorce technoscientific epistemology from its messy politico-economic context. Risk is backward looking and relies on the past reproducing itself at regular intervals. But the exigency involved in fiscal politics cannot be captured readily as a statistical probability.

The authoritative capacity of external ratings would grow as the narrative of risk is normalised through its reiteration as an official practice of the EU. Here the performativity of ratings connects their action to authority. Why would the EU choose to institutionalise the status and utility of external ratings if there is a global movement – which it has joined – to remove the reference and reduce the reliance on exactly these financial instruments? Rather than minimising their impact and leverage, I posit that this proposal would have the opposite effect of rendering ratings virtually unassailable. With the blessing of the EU, external ratings would garner an enhanced sense of legitimacy in the constitution of authoritative knowledge surrounding sovereign debt.

In order to become a credible alternative, an EU CRA would have little choice but to adopt this prevailing modality as it seeks to build its reputational capital. However, this would work to undermine its own legitimacy as technical knowledge is removed from the field of political contestation. Rather than recognising how variegated notions of normality underpin calculations of sovereign default, a public CRA would impose an artificial uniformity on the EU. Frictions with fiscal sovereignty would only make the EU more prone to

destabilising forces. Compounded by the peripheral role to which it would be relegated – relative to the established CRAs – and by the various conflicts of interests which confront such an enterprise, the analytical and operational deficits of an EU CRA far outweigh any proposed benefits.

Ultimately, the politics of creditworthiness is a discussion about the politics of limits and who has the authority to decide the complexion of those parameters. Deploying the analytical tools of the governmentality approach helps better understand that lumping unique or unusual circumstances together has no bearing in reality. It only provides a skewed notion of the liabilities involved while it cements a fictitious quantitative/qualitative distinction between risk and uncertainty. Attempts to shift away from human competencies and critical judgement towards quantitative techniques are reflective of a rationality that privileges the authority of the market over that of the state. Ratings are an internal form of governmentality upon which this self-sustaining logic of the market depends. Recent frictions in Europe are challenging its sustainability.

Notes

1. The big three CRAs dominate the market when it comes to rating sovereign debt. S&P rates 125 sovereigns, Moody's rates 110 and Fitch rates 107. Outside of Japan, the only credible firm operating in this space is Kroll Ratings with a mere 59 sovereigns rated.

2. Ratings are signals which inform market actors of the suitability standards of an issuer. Investment policies and mandates of portfolio and asset managers demand that they only invest in investment grade bonds. Rating also certify which securities can serve as part of regulatory capital requirements.

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