

## INDEX

- acceleration clause, mortgage loan  
 contract, 45–6, 48
- access  
 to bankruptcy, 128–9, 268, 270,  
 273–4  
 to credit, 51–2, 99–101, 263  
 to DRO procedure, 123–5, 232, 258  
 to IVA, 232
- Andrews v. ANZ Banking*, 48
- Arnold v. Britton & Ors*, 142
- assets, 196  
 debt-to-asset ratio, 21  
 exempt, 190–1, 205–6  
 liquidation, 104, 116, 118
- assured tenancies, 205
- austerity  
 bankruptcy implications, 186–8  
 government debt collection and,  
 181–6  
 insurance and, 188–207  
 local government debt and, 183–4
- austerity policies, 17, 63, 110–11  
 bankruptcy and, 175  
 household debt and, 176–88  
 household financial difficulties and,  
 176–81  
 personal insolvency and, 174  
 post-crisis, 56  
 priority debts and, 176–81  
 welfare provision under, 179–81
- Baker, Tom, 223
- bankruptcy, 110. *See also* consumer  
 bankruptcy  
 abuse, 216–17  
 assets available for liquidation,  
 104, 116  
 austerity implications for, 186–8  
 austerity policies and, 175
- benefits, 281  
 commercial, 69–73  
 consumer, 23–31  
 contemporary role of, 14  
 costs of, 279  
 creditor-initiated, 193  
 critical theory perspectives, 280  
 debt collection, 66–9, 76, 77–80  
 debt overhang problem and, 32,  
 108–9  
 debt reduction function of, 35  
 debt relief, 35–6, 66–9, 102–5  
 debt relief and, 13–14, 76–7  
 debtor outcomes and, 279, 280  
 debtor-invoked, 102  
 deposit costs, 258  
 de-stigmatising, 236, 245–6  
 DRO procedure compared with,  
 124–5, 204–5
- as economic stabiliser, 65  
 enforcement, 239–46  
 in Europe, 70  
 financialisation and, 62–3  
 financialised capitalism and, 38–9  
 functions of, 66  
 Global Financial Crisis and, 175  
 government debt and, 207–13  
 historical origins of, 14, 34  
 household debt and, 2–3  
 in housing crisis, 205–7  
 insolvency compared with, 2–3  
 insolvency requirement, 32–3  
 insurance function of, 22–3,  
 188–207, 268–9  
 insurance theory of, 229  
 involuntary, 197  
 liberalisation of, 112  
 limits of, 31–4  
 in market terms, 127–9

- moral hazard in, 217–18  
 objectives of, 73–4  
 over-indebtedness and, 22–3  
 path dependency of, 34  
 priorities, 73–93  
 public perception of, 276  
 public policy value of, 272–3  
 purpose of, 35  
 rights and obligations, 125–6  
 as social insurance, 93–7, 207–13, 272–4  
 as social safety net, 69–73  
 statutory procedures of, 118  
 terminology, 23–4  
 in United States, 70–1, 120–1, 150, 186
- Bankruptcy Abuse Prevention and Consumer Protection Act (2005), 121, 145
- Bankruptcy Abuse Prevention and Consumer Protection Act (2008), 10
- bankruptcy fees, 125, 144  
*R v. Lord Chancellor, ex parte Lightfoot*, 125–7
- bankruptcy petitions  
 court power to dismiss or stay, 194  
 local authority, 192–200
- bankruptcy reforms, 112, 218, 275
- Bankruptcy Restriction Orders and Undertakings (BROs/BRUs), 232–6  
 administration of, 244  
 application of, 237–9  
 case law, 238–9  
 credit reporting and, 261  
 failures of, 236–7  
 historically, 237–8  
 in insolvency system, 258  
 mechanism, 256  
 moral hazard and limitations of, 236–7  
 performance targets, 243–6  
 political communication and, 243–6  
 post-democratic governance and, 243–6  
 sanctions, 233–4  
 bankruptcy restrictions, 122–30, 242
- Bankruptcy Restrictions Orders (BROs), 218  
 court and, 233  
 debtor misconduct and, 235–6
- Bankruptcy Restrictions Undertakings (BRUs), 218
- bankruptcy tourism, 25
- bedroom tax, 179
- behavioural economics, 84–5, 160–1, 223  
 debtor behaviour and, 241–2  
 on household credit use, 251
- benefit sanctions, 180
- borrower behaviour, 84–6, 270  
 credit reporting and, 262–3  
 incentivising, 254  
 legal regulation of, 251–2  
 reforming, 254
- borrower creditworthiness, 50
- borrowing  
 costs, 100  
 in debt dependent economy, 219–20  
 household, 250–2  
 moral hazard and, 250–6, 269  
 over-borrowing, 235–6  
 reasonable, 219–20, 247–56
- Brexit, 2
- BROs. *See* Bankruptcy Restrictions Orders
- BROs/BRUs. *See* Bankruptcy Restriction Orders and Undertakings
- BRUs. *See* Bankruptcy Restrictions Undertakings
- business insolvency, 26, 34–5, 104–5  
 consumer compared with, 27  
 personal insolvency and, 273  
 reform, 134
- capitalism. *See also* financialised capitalism  
 eras of, 37–52  
 inequality and fundamental features of, 10–11  
 managed, 39  
 surveillance, 261–7
- caveat emptor*, 49
- Chartbrook Ltd v. Persimmon Homes Ltd & Ors*, 142

- cognitive biases, 160–1
- collective action theory, 275
- commercial law, 27–8
- commercialisation of public services, 146
- consumer
  - concept of, 29
  - political identity of, 29–30
  - responsible, 220–2
- consumer bankruptcy, 2–3, 103
  - comparative literature, 23
  - English law, 112–16
  - intermediaries, 154–5
  - path dependency of, 108
  - reform, 134–5
- consumer bankruptcy market, 149–54
  - complexity, 168
  - contracting failures, 158–67
  - debtor behaviour in, 160–1
  - facilitating, 133–7
  - failures, 154–67
  - household debt restructuring limits and, 158–67
  - imperfections in, 168–9
  - intermediation problems, 154–7
  - principal-agent problems, 154–7
  - regulation, 168–9
- Consumer Credit Act (1974), 44
- Consumer Credit Act (2006), 46
- consumer credit market failures, 80–6
- consumer debt, 15–16, 24–5. *See also* household debt relief, 25–6
- consumer insolvency, 26
  - business compared with, 27
  - moral hazard and responsibility for, 252–6
- consumer law, 27, 70
- consumer lending, 49–51
- consumer plea bargaining,
  - contractualisation and, 239–43
- consumer protection, 48, 59
- consumption, 28
- consumption smoothing, 51–2, 55
- contract law, 47–8
  - consumer contract terms, 82
  - IVA and, 137–43
- contracting failures, 158–67
- contractual bankruptcy, 130–43
  - creditor bargains and, 137–43
  - limits to consumer, 147–73
- contractualisation
  - consumer plea bargaining and, 239–43
  - of personal insolvency, 110
- cooperation, in creditors' bargain theory, 78–9
- Cork Committee, 134–5
  - Debts Arrangement Order, 134
- Council Tax Benefit, 183
- council tax collection, 192–200
- council tax debt, 209
- credit
  - availability standards, 15–16
  - contracts, 81–2 (*See also* debt contracts)
  - cost of, 99–101
  - wealth democratisation through, 59
- credit cards
  - abusive practices, 10
  - debt from, 187–8
  - inequality and, 18–19
  - 0 per cent Balance Transfer offers, 187
- credit debt, 15–16
- credit history, 263–4
  - misreporting of data, 263
- credit markets, 13
  - consumer protection and, 59
  - failures, 80–6
  - high-cost, 16
  - inequality and, 9–10
  - moral hazard in, 267–8
  - mortgage, 43
  - politics and, 57–8
  - regressiveness of consumer, 18
- credit morality, 216–18, 263
  - privatisation of, 256–67
- credit reference agencies, 266
- credit regulation, 44–5
- credit reporting, 261–7
  - accuracy, 265–6
  - borrower behaviour and, 262–3
  - BRO/BRU regime and, 261
  - critiques, 265–7
  - enforcement and, 264
  - in English law, 266–7

- function of, 264
- credit scoring, 261
- functions of, 264
- judging borrowers and, 264–5
- mechanisms, 265
- credit supply, expanded, 50
- credit terms, discriminatory, 59–60
- creditor losses, 79–80
- creditor petitions, 194
  - restricting, 200
- creditor returns maximisation, 143, 146, 205–6, 259–60
  - prioritising, 207
- creditor wealth maximisation, 77–80, 127, 170–1
- creditor-initiated bankruptcies, 193
- creditors
  - in debt resolution market, 158–9
  - individual enforcement, 152–3
  - moral hazard, 254–6
  - payment of, 192
  - protection of, 144
- creditors' bargain theory, 77–8, 109, 126, 140, 141
  - consumer credit market failures and, 80–6
  - consumer plea bargaining, 239–43
  - cooperation in, 78–9
  - efficiency in, 77–8
  - flaws in, 146
  - IVA, 145
  - macroeconomic issues, 91–2
- credit/welfare trade-off, 54–5, 179
- creditworthiness
  - assessments, 266
  - borrower, 50
- Crowther Committee, 44
- debt burden, 90–1
- debt collection. *See also* government debt collection
  - bankruptcy, 66–9, 76, 77–80
  - as collective procedure, 196
  - costs, 235
  - debt relief and, 192, 198
  - personal insolvency law and, 229
  - views on, 215
- debt contracts, 9–10, 11
- debt counselling services, 119
- debt dependent economy
  - bankruptcy as social insurance in, 272–4
  - consumer borrowing in, 219–20
  - contradictions of, 53–61
  - justifying, 51–52
  - legal foundations of, 42–9
- debt discharge, 67, 115–16, 127, 143, 254
  - automatic, 67
  - DRO procedure, 151
  - exclusion from, 231–2
  - non-dischargeable debt, 235
  - waiting period for, 229
- debt economy, 1–15
  - global, 4–6
  - household borrowing in, 250–2
- debt forgiveness, 256–67
  - policies, standardisation of, 160
- Debt Management Plans (DMPs), 102–3, 114, 118, 119–20, 149–50, 272
  - IVA compared with, 153–4
  - policymaker preference for, 259
  - repayment period, 165–6
  - repayment terms, 157
- debt morality, 161–2
- debt overhang problem, 8, 19–20, 24, 31–4
  - bankruptcy and, 32, 108–9
  - fiscal policy for, 107–8
  - policies, 33–4
  - priority debts and, 178
  - social costs of, 62
- debt refusal, 76
- debt relief, 13–15, 202–3
  - ability to provide, 110–11
  - abuse of, 216, 247
  - bankruptcy, 66–9, 102–5
  - bankruptcy law and, 13–14, 35–6, 76–7
  - case for, 30–1, 105–11
  - cost of, 129, 227–32, 233
  - debt collection and, 192, 198
  - as debt forgiveness, 260
  - household credit access and, 99–101
  - insolvency law and, 117

- debt relief (cont.)  
 legal aid funding, 128  
 moral hazard and, 98–9  
 moral objections to, 269  
 objections to, 97–111  
 policies, 31–2  
 redistribution through, 92–3  
*Regina (Cooper and Payne) v. Secretary of State for Work and Pensions United Kingdom Supreme Court*, 208  
 restrictions, 232  
 tax expenditure on, 127–8
- Debt Relief Order (DRO) procedure, 68–9, 102–3, 112, 114–15, 118–19, 149–50  
 access to, 123–5, 232, 258  
 bankruptcy compared with, 124–5, 204–5  
 debt discharge under, 151  
 fee, 127  
 insolvency condition, 228, 229  
 moratorium, 203–4  
 preferences doctrine, 189–90  
*R (Howard) v. Official Receiver* and, 72–3  
 reform and, 172  
*Regina (Cooper and Payne) v. Secretary of State for Work and Pensions United Kingdom Supreme Court* and, 203–5  
 requirements, 130–1  
 scope of protection, 206
- Debt Relief Restrictions Orders and Undertakings (DRROs/DRRUs), 218, 233
- debt resolution market, 147–9, 158–9, 258–61
- debt restructuring  
 corporate, 149  
 market, information asymmetries in, 159
- debt safety net, 179
- debtfare economy, 54–5, 63, 132–3, 179, 260–1
- debtor behaviour, 37–8, 149–50, 267  
 behavioural economics and, 241–2  
 in consumer bankruptcy market, 160–1  
 emotion and, 161–2  
 moral values and, 161–2  
 opportunistic, 150  
 rational choice assumption and, 160  
 standards, 247–8
- debtor choice, 118–22
- debtor (mis) conduct, 63–4, 98–9, 216–17  
 BRO system and, 235–6  
 Insolvency Service on, 244–5  
 intentional, 256  
*Official Receiver v. Southey* and, 248–50  
*Debtor v. Allen*, 229
- debtor-creditor dynamics, 5–6, 11–12, 32  
 financialised capitalism and, 240  
 focus on, 37–8  
 government debt and, 212  
 insurance theory and, 95–6  
 IVA and, 142  
 losses and, 101  
 moral values and, 162  
 political identities and, 29–30  
 power asymmetry, 29, 59–60  
 risk allocation and, 95  
 state-citizen interaction and, 27
- debtor-creditor negotiation  
 contracting failures in, 158  
 information asymmetries in, 159
- debtor-invoked bankruptcy, 102
- debtors, 274  
 access to bankruptcy procedures, 122–30  
 access to DRO procedures, 123–5  
 bankruptcy and outcomes for, 279, 280  
 characteristics, 163  
 in debt resolution market, 158–9  
 dismissal of, 231  
 doing the right thing, 258–61  
 employment prospects, 253  
 good and bad, 264–5  
 government debt, 209–10  
 high net worth, 172  
 intermediaries, 154

- IVA, 150–2  
 liquidity constraints, 122–3  
 media representations of, 221  
 morality of, 225  
 priority payments, 189  
 protection of, 100  
 racial disparity, 121  
 vulnerable, 163, 212
- debt-to-asset ratio, 21  
 debt-to-income ratio, 17–18, 21  
   high net worth debtor, 25
- default risk, 20, 96, 253
- democratisation of credit, 13, 59, 60, 63, 267, 271
- de-stigmatising bankruptcy, 236, 245–6
- discipline, 256–67  
   debt relations under financialised capitalism and, 260–1
- disclosure, 47
- DMPs. *See* Debt Management Plans
- DRO procedure. *See* Debt Relief Order procedure
- DRROs/DRRUs. *See* Debt Relief Restrictions Orders and Undertakings
- economic growth, 39–40
- economic policies, 41. *See also* fiscal policy; monetary policy
- economic stagnation, 1–2, 7–8
- efficiency-equity trade-off, 8–9, 75
- efficient market hypothesis, 148, 160
- enforcement  
   bankruptcy law, 239–46  
   credit reporting and, 264  
   creditor individual, 152–3  
   funding, 246  
   Official Receiver targets for, 243
- England  
   credit reporting in, 266–7  
   personal insolvency law in, 65–6, 213–14, 228
- English bankruptcy law, 71–3, 113, 120–1, 192  
   consumer, 112–16  
   court decisions, 276–8  
   logical and political limits of, 274–8
- Enterprise Act (2002), 67–8, 89, 112, 135, 152, 210, 218  
   debt discharge waiting period, 229  
   de-stigmatising bankruptcy and, 236, 245–6
- entrepreneurship, 88–9
- Europe, bankruptcy law in, 70
- evictions, 33, 206–7  
   *Places for People Homes Ltd v. Sharples* and, 208–9
- ex ante* monitoring, 230
- ex post* monitoring, 230
- exemptions  
   asset, 190–1, 205–6  
   bankruptcy, 190–1
- externalities, 86–93  
   of over-indebtedness, 86–7, 106  
   regulatory intervention, 166–7
- Financial Conduct Authority (FCA), 16, 46, 80–1  
   intermediary regulation, 156–7
- financial counselling, 119, 136–7
- financial crises, household debt and, 105. *See also* Global Financial Crisis
- financial deregulation, 42–4
- financial markets  
   consumer, 29  
   individuals in, 30  
   state intervention in, 14
- financial sector  
   bail out of, 12, 100  
   policy, 12  
   role in economy, 4
- financial services, 3
- Financial Services and Market Act (2000), 43
- Financial Services Authority (FSA), 43–4
- financialisation, 34, 220–2  
   bankruptcy and, 62–3  
   global debt economy and, 4–6  
   Global Financial Crisis and, 56  
   neoliberal, 62–3  
   process of, 221  
   understandings of, 3–4

- financialised capitalism, 1–15, 239–46  
 bankruptcy law and, 38–9  
 centrality of debt and, 2  
 contemporary, 239–40  
 debtor-creditor dynamics and, 240  
 disciplinary nature of debt relations  
 under, 260–1  
 expansion of, 132–3  
 household debt and, 7  
 household debt expansion and, 37  
 fiscal consolidation, 34. *See also*  
 austerity; austerity policies  
 fiscal policy, 107–8  
 fraud, 182, 235  
 insolvency law and policing of, 259  
 social welfare, 245  
 freedom of contract doctrine, 138  
 fresh start policy, 62, 69, 87, 130, 198,  
 202–3  
 retreat from, 122  
 state immunity litigation from,  
 200–205  
 FSA. *See* Financial Services Authority  
 GDP. *See* gross domestic product  
 Global Financial Crisis, 1  
 aftermath of, 53  
 austerity policies post-, 56  
 bankruptcy policymaking post-, 175  
 economy post-, 176–7  
 financialisation and, 56  
 household debt and, 7–8  
 mortgage restructuring post-, 148  
 policy responses to, 113  
 government creditors, 17, 211  
 human rights and, 183  
 practices, 212  
 priority, 192–200  
 government debt  
 bankruptcy and, 207–13  
 central, 16–17  
 council tax debt, 209  
 debtor characteristics, 209–10  
 redistribution of, 210  
 government debt collection, 17, 182  
 austerity and, 181–6  
 local, 184  
 Great Recession, 1  
 aftermath of, 53  
 levered losses framework, 90–1  
 policy responses to, 113  
 sluggish recovery, 8  
*Green (Supervisor of the IVA of Wright)*  
 v. *Wright*, 139, 141, 143  
 gross domestic product (GDP)  
 household debt and growth of, 7  
 household debt as percentage of, 5  
 HAMP. *See* Home Affordable  
 Modification Program  
 hidden debt problems, 16–17,  
 175–6, 177  
 high net worth debtor, 25, 172  
 high-cost credit market, 16  
 hindsight bias, 247  
 Home Affordable Modification  
 Program (HAMP), 169  
 homelessness, 33  
 household debt, 1–15, 250–2  
 austerity and, 176–88  
 bankruptcy law and, 2–3  
 disposable income percentage, 6  
 distribution of, 17–20  
 economic stagnation and, 1–2, 7–8  
 economy and, 105  
 excessive, 9, 31, 271, 272  
 financial crises and, 105  
 financialised capitalism and, 7  
 GDP growth and, 7  
 GDP percentage, 5  
 Global Financial Crisis and, 7–8  
 inequality and, 1–2, 8–11, 18–19  
 intricacies of, 28–9  
 levels, 15–17  
 living costs and, 53–4  
 over-indebtedness and, 20–3  
 political instability and, 1–2, 11–13  
 relief, 13–15  
 role of, 7  
 sale of, 50–1  
 household debt expansion, 4–5, 47,  
 219–20  
 financialised capitalism and, 37  
 political economy of, 37–52  
 household debt restructuring  
 laws, 186–7

- limits of consensual, 158–67
- household financial difficulties, 176–81
- Housing Act (1998), 205
- housing crisis, bankruptcy in, 205–7
- human rights, 125–6, 183
- hurdle rates, 132
  
- income shocks, 58, 84
  - vulnerability to, 186
- indebtedness. *See also* over-indebtedness
  - distribution, 17
  - long-term, 16
- Individual Insolvency Register, 195
- individual responsibility, 14, 258–9, 275–6
- Individual Voluntary Arrangement (IVA), 24, 28–9, 67, 68, 102–3, 114, 118
  - access to, 232
  - bargaining model in, 145
  - contract law and, 137–43
  - control in, 151–2
  - debtor, 150–2
  - debtor-creditor dynamics and, 142
  - development of, 131
  - DMP compared with, 153–4
  - failures, 164
  - fees, 149–50
  - growth of, 131–2
  - insolvency condition, 228, 229
  - judicial shaping of, 130–43
  - low-debt, 132
  - market dominance of, 131–3
  - number of, 114
  - ongoing, 165
  - over-indebtedness and, 272
  - personal insolvency and, 135–6
  - policymaker preference for, 259
  - procedure, 103–4, 119, 137–8
  - protocol, 132
  - regulation, 168–9
  - repayment period, 164–5
  - repayment terms, 157
  - by status, 166
  - terms, 163–4
- individualisation, 4
  
- inequality, 271–2
  - capitalism and, 10–11
  - credit cards and, 18–19
  - credit markets and, 9–10
  - debt contracts and, 11
  - household debt and, 1–2, 8–11, 18–19
  - political instability and, 11
- inflation, 40
  - stagflation, 40
  - targeting, 41–2
- informal insolvency, 130
- information asymmetries, 82–3, 241
  - in debt restructuring market, 159
- insolvency. *See also* business insolvency; consumer insolvency
  - bankruptcy and requirement of, 32–3
  - bankruptcy compared with, 2–3
  - BROs/BRUs and, 258
  - debtors entering, 114–15
  - fees, 128, 146
  - joint insolvency petitions, 28–9
  - legally, 22
  - over-indebtedness and, 22–3
  - personal, 65–73
  - policy, public expenditure and, 172–3
- Insolvency Act (1985), 134
  - bankruptcy debt under, 202
  - debtor asset exemptions, 190–1
  - liability under, 202
  - tortious debts, 231
- Insolvency Act (1986), 67, 127, 134
  - insolvency condition, 273
  - DRO procedure, 228, 229
  - IVA, 228, 229
- insolvency law
  - debt relief and, 117
  - fraud policing and, 259
- insolvency markets, 102, 143
- Insolvency Service, 135–6
  - BRO/BRU administration, 244
  - on debtor misconduct, 244–5
  - funding cuts, 136
- insurance function, of bankruptcy law, 188–207, 268–9. *See also* social insurance



- insurance theory, 225–6  
 of bankruptcy, 94–7, 229  
 debtor-creditor dynamics and, 95–6  
 moral hazard problem in, 98  
 social, 209
- intellectual property law, 10
- interest rates, 44–5, 84
- intermediaries  
 client recruitment practices, 156  
 consumer bankruptcy, 154–5  
 debtors, 154  
 FCA regulation of, 156–7  
 financial incentives, 155–6  
 repayment terms and, 157
- intermediation problems, 154–7
- involuntary bankruptcy, 197
- Irish Bank Resolution Corporation Limited v. Quinn*, 26
- IVA. *See* Individual Voluntary Arrangement
- Johnson v. Davies*, 138, 139, 140, 141
- joint insolvency petitions, 28–9
- Kemsley v. Barclays Bank Plc and Others*, 26
- Keynesian demand management, 37, 39–40. *See also* privatised Keynesianism  
 managed capitalism, 39
- Lazzarato, Maurizio, 5, 239–40
- levered losses framework, 90–1
- liability, 202
- liquidation procedure, 134
- liquidity constraints, 122–3
- living costs  
 household debt and, 53–4  
 increasing, 177  
 over-indebtedness and, 58–9  
 privatisation and, 54
- living standards, 53
- loans for wages, 53–4, 177, 251
- loan-to-income (LTI) mortgage loans, 43–4
- loan-to-value (LTV) mortgage loans, 43–4
- local government debt, 16–17  
 austerity and, 183–4  
 collection, 183–4  
 local authority petitions, 192–200
- Local Government Ombudsman, 198–200
- Local Loan Co v. Hunt*, 130
- loss aversion, 85
- LTI mortgage loans. *See* loan-to-income mortgage loans
- LTV mortgage loans. *See* loan-to-value mortgage loans
- market failures, 148  
 analysis, 75–6  
 consumer bankruptcy, 154–67  
 consumer credit, 80–6  
 credit, 80–6  
 personal insolvency law and, 214
- market for lemons, 83
- market innovation, 49–51
- market-based debt resolution, 147–9, 258–61  
 model, 147–8  
 over-indebtedness and, 148–9
- marketisation. *See also specific markets*  
 of personal insolvency, 110  
 of public services, 34, 127–9
- Marquette v. First Omaha*, 42
- McGrath v. Secretary of State for Work and Pensions*, 183
- McGuffick v. Royal Bank of Scotland plc*, 263
- media, 221, 245
- Mikki v. Duncan*, 190, 191
- mis-selling practices, 97
- Mohamed Aziz v. Catalunyacaixa*, 45–6
- Mond v. MBNA Europe Bank Ltd.*, 138–9, 140, 141, 153
- monetarism, 41
- monetary policy, 33, 41–2, 107
- monopoly rights, 10
- moral hazard, 98–9, 111, 216, 247  
 assumptions of, 226–7  
 in bankruptcy, 217–18  
 BROs/BRUs system limitations and, 236–7

- consumer borrowing and, 269  
 consumer insolvency responsibility  
   and, 252–6  
 in credit markets, 267–8  
 creditor, 254–6  
 in insurance theory, 98  
 morality of, 222–5  
 over-indebtedness and, 252–3  
 personal insolvency law and, 227  
 as policy tool, 225–7  
 politics of, 222–5  
 reasonable borrowing and, 250–6  
 value-laden concept of, 224  
 morality, 247, 224. *See also* credit  
   morality  
   debt, 161–2  
   debt relief objections and, 269  
   of debtors, 225  
   of moral hazard, 222–5  
   payment, 161–2  
 mortgage credit market, 43  
 mortgage debt, 15
- National Audit Office, 185  
 needs-based lending, 212  
 neoliberal financialisation, 62–3  
 neoliberal regulation, 42–51  
 neoliberalism, 3, 14, 34, 41–2, 220–2  
   corporate, 148–9, 277  
   debt and, 5  
   economic policies and, 41  
   insolvency marketplace and, 144  
   judiciary and, 277  
   market, 277  
   progressive, 57  
   regulation and, 92  
   supply side economics, 37  
   understanding, 41  
 net entitlement principle, 201  
 non-dischargeable debt, 235  
 Non-Performing Loans (NPLs), 273
- Obama, Barack, 1–2, 12  
 objective theory of interpretation, 142  
 Occupy movement, 11  
*Office of Fair Trading v. Abbey National  
 plc and Others*, 277  
*Official Receiver v. Keelan*, 25  
*Official Receiver v. Southey*, 248–50, 253  
 Official Receivers, 240–1  
   enforcement targets, 243  
   *Official Receiver v. Keelan*, 25  
   *Official Receiver v. Southey*, 248–50  
   *R (Howard) v. Official Receiver*, 72–3  
   *Randhawa v. Official Receiver*, 233,  
     238–9, 242  
   *Yang v. The Official Receiver*, 195  
 optimism bias, 241  
 over-borrowing, irresponsible, 235–6  
 overdraft fees, 48  
 over-indebtedness  
   bankruptcy law and, 22–3  
   blame for, 258–9  
   causes, 252  
   contractual solutions, 106–7  
   definitions, 20–1  
   externalities of, 86–7, 106  
   household debt and, 20–3  
   insolvency and, 22–3  
   IVA and, 272  
   living costs and, 58–9  
   market-based debt resolution and,  
     148–9  
   measuring, 21–2  
   moral hazard and, 252–3  
   negative health effects of, 161  
   productivity and, 87–8  
   regulatory solutions, 106–7  
   social costs of, 22, 62  
 overpayment  
   debt/claims, 211–12  
   social welfare, 201–2
- path dependency, 274–5  
   of bankruptcy, 34  
   of consumer bankruptcy, 108  
 payment morality, 161–2  
 payment plans, 129–30  
 payment protection insurance  
   (PPI), 143  
 persistent debt, 16  
 personal insolvency  
   austerity policies and, 174  
   commercial standards and, 238–9  
   corporate insolvency and, 273  
   market, 115–16

- personal insolvency (cont.)  
 priority debts in, 188–91  
 privatisation of, 167  
 procedures, mandatory versus consensual, 115  
 personal insolvency law and policy, 65–73, 104–5  
 Cork Committee on, 134–5  
 debt collection and, 229  
 debtor characteristics, 69–70  
 development of, 133–4  
 English, 65–6, 213–14, 228  
 IVA and, 135–6  
 market failures and, 214  
 marketisation of, 110  
 moral hazard and, 227  
 reform, 116–17, 135, 137, 171–2  
 social problems and, 214  
*Places for People Homes Ltd v. Sharples*, 205–8  
 eviction and, 208–9  
 political economy  
 of household debt expansion, 37–52  
 regime shifts in, 38  
 political instability  
 household debt and, 1–2, 11–13  
 inequality and, 11  
 politics  
 credit markets and, 57–8  
 of English bankruptcy law, 274–8  
 of moral hazard, 222–5  
 populism, 11–12  
 post-democratic governance, 243–6  
 PPI. *See* payment protection insurance  
 predatory lending practices, 10  
 pricing  
 practices, 45–6  
 risk-based, 15–16, 94–5  
 principal-agent problems, 154–7  
 priority debts, 176–81  
 concept of, 188–9  
 debt overhang problem and, 178  
 defined, 177–8  
 non-payment of, 178–9  
 in personal insolvency, 188–91  
 policy challenge of, 178–9  
 private debt, 148, 183–4  
 private ordering, 144–5  
 privatisation  
 of credit morality, 256–67  
 of personal insolvency, 167  
 of public services, 34, 54, 93–4, 129  
 privatised Keynesianism, 53–4, 56–7, 271  
 limits of, 61–2, 64  
 problem debt, 31  
 product design regulation, 45–6  
 productivity, over-indebtedness and, 87–8  
 public debt, 183–4, 214–15  
 public expenditure, 127–8, 172–3  
 public services  
 commercialisation of, 146  
 fiscal consolidation and, 34  
 funding of, 55  
 marketisation of, 34, 127–9  
 performance targets, 243–4  
 privatisation of, 34, 54, 93–4, 129  
 quantitative easing, 107  
*R v. Lord Chancellor, ex parte Lightfoot*, 71–2, 109, 125–7, 129  
*R (Howard) v. Official Receiver*, 72–3  
*Raja v. Rubin and Another*, 139  
*Randhawa v. Official Receiver*, 233, 238–9, 242, 248  
 rational choice assumption, 84–5, 149–50  
 debtor behaviour and, 160  
 rational sorting, 143  
 recession, insurance and, 188–207. *See also* Great Recession  
 redistribution, 277  
 through debt relief, 92–3  
 of government debt, 210  
*Regina (Balding) v. Secretary of State for Work and Pensions*, 201–3, 207–8  
*Regina (Cooper and Payne) v. Secretary of State for Work and Pensions United Kingdom Supreme Court*, 201–2, 203–5, 206–8  
 debt relief and, 208  
 regressive consumer credit markets, 18  
 rent arrears, 16–17, 179  
 rental housing costs, 53–4

- rent-to-own market, 179–80
- repayment plans, 122, 134
  - long-term, 143, 162–3, 170–1
- responsibilisation, 4
- responsible consumer, 220–2
- responsible lending, 46–7, 255, 266
- revolving credit, 49–50
- risk aversion, 241
- risk-based pricing, 15–16, 94–5
- Royal Bank of Scotland Plc v. Etridge*, 48, 100
- securitisation, 49, 50
- self-authored insolvency, 140
- SFS. *See* Standard Financial Statement
- shame, 151, 159, 161–2
- social force majeure*, 186
- social insurance
  - bankruptcy as, 93–7
  - bankruptcy law as mechanism of, 22–3
  - of last resort, 278–81
  - theory, 209, 253, 272–4
- social safety net, tightening, 181–6
  - household support through, 186–7
- social welfare, 93
  - austerity policies and, 179–81
  - credit/welfare trade-off, 54–5, 179
  - debt, 181–6
  - fraud, 245
  - overpayments, 201–2
- stagflation, 40
- Standard Financial Statement (SFS), 160
- status quo bias, 85
- Stiglitz, Joseph, 10
- stigma, 151
  - of bankruptcy, 244
  - of debt, 28
  - de-stigmatising bankruptcy, 236, 245–6
- subprime mortgages, 19
- surveillance capitalism, credit reporting in, 261–7
- teaser interest rates, 84
- time inconsistent preferences, 241
- time-limited credit consensus, 56–61
- tortious debts, 231
- Trump, Donald, 2
- Tucker v. Gold Fields Mining LCC*, 27
- undesirable conduct, 230
- undue influence, 100
- United States, bankruptcy law in, 70–1, 120–1, 150, 186
- Universal Credit, 180–1
- vulnerable debtors, 163, 212
- wealth maximisation, 80
  - creditor, 77–80, 127, 170–1
- welfare law, 70
- welfare reform, 181–2
- welfare state
  - bankruptcy and, 94
  - consumer credit and, 55
  - consumption smoothing function, 55
  - regulatory, 93–4, 186
- welfare-enhancing credit, 31
- Yang v. The Official Receiver*, 195