

## Podcast with Jelena McWilliams, Chairman of the FDIC

**\*Note that transcripts may sometimes contain errors and that transcript timing notations do not match the posted podcast**

Jo Ann Barefoot: [00:00](#) All right. Okay. I am going to say in advance I'm going to predict that this is going to be one of the best podcasts we have ever done because my guest is Jelena McWilliams, the chairman of the FDIC. Thank you for being with us today.

Jelena McWilliams: [00:17](#) Well, thank you, and with an intro like that, this better be one of the best ones now.

Jo Ann Barefoot: [00:21](#) Yeah. No pressure.

Jelena McWilliams: [00:22](#) Thank you.

Jo Ann Barefoot: [00:23](#) But you and I have had a chance to talk in other forums and I know our guests are just going to love to hear from you. And you have been such a leader on the topics we talk about on this show that I'm really looking forward to it.

Jo Ann Barefoot: [00:36](#) I want to start, though, by talking about you. And there was a profile of you in the Wall Street Journal last year that had a title, something like America's Most Inspiring Bureaucrat and it talked about your background. You have a very unusual background that I know shapes a lot of what you do. So just tell us a little bit about that.

Jelena McWilliams: [00:58](#) Sure. Sure. And if you're going to be a bureaucrat, you may as well be the inspiring one. I wasn't born and raised in the United States. I was born and raised in the former Yugoslavia. I basically grew up kind of the late years of communism, declining era of communism and spent a lot of my time in, at the time, kind of a socialist transitional society and realized that the opportunities to do things you want to do in life sometimes can be limited by your geopolitical status in the world. So I realized pretty early on in my life I would love to come to the United States, the land of opportunity. And I grew up watching shows like Dallas and Dynasty and believing that if you work really hard, you can do just about anything in the United States.

Jelena McWilliams: [01:49](#) And so when I turned 18, literally on my 18th birthday, the day before my 18th birthday, I left from Yugoslavia with \$500 of borrowed money on a Pan Am flight and two suitcases, which was basically my worldly belongings. And I told my parents, "I'm going to go and succeed, whatever success may look like. And I'm not coming back." And then within six months of me arriving in the United States, I was an exchange student and within six months, Pan Am went bankrupt, former Yugoslavia fell apart, and there was really no going back, to tell you the truth. For all of my "I'm not coming back," there was no going back.

Jelena McWilliams: [02:33](#) And so I did. I stayed in the United States. I was down to \$50 of my \$500 when it came time to apply to colleges and I was living in Stockton, California, Central California with a host family. And application to UC Berkeley was \$40, application to Stanford was \$60. I had \$50 so I applied to Berkeley, got in, and then I drove 80 miles each way to go to school because I couldn't afford to live in the Bay Area. So 160 miles to get to school understanding that my path to success in America was through education. I knew that no matter what, I could go hungry, I could go without shelter if needed, but I can't go without education because if I'm going to make it in the United States of America, that was the way to do it.

Jelena McWilliams: [03:14](#) And so I spent my undergrad at Berkeley and then went to law school at UC Berkeley as well and by proximity to Silicon Valley became a lawyer at one of the large law firms in Silicon Valley. And this was early 2000s. Got an opportunity to work with some of the early stage companies at the time and working on venture financing rounds and just trying to understand the technology the clients had. This is at the time when Google didn't have an IPO yet and there were some other search engines that were competing for attention as well and funding.

Jelena McWilliams: [03:45](#) And I got to work with a number of these companies and I had to tell you, it was exceptionally exciting because you realized, even as a junior lawyer at the time, I realized that I'm witnessing the future in the making. And I don't know which of these companies are going to change the world, but one of them is. And so sure enough, some of the clients I had at the time did end up changing the world and the way that we look at things.

Jelena McWilliams: [04:10](#) But then I became interested, really, as I was working with these early stage companies, I became interested in how the regulations are affecting them. Because quite often, I would

have to call up the Securities and Exchange Commission as these companies were thinking about going public and ask, "Hey, we have a company that does X. Your regulations were kind of drafted 50 years ago trying to address something that looks like Y, but the company does something that's similar to Y but it's X. And how do you want us to handle X?"

Jelena McWilliams: [04:38](#) And too often, I would basically run into, "Let's get back to you." And for the best efforts of the SEC's attorneys at the time that I was dealing with, it was always difficult to understand and to come with a framework within the existing regulations that would address the clients I was working with.

Jelena McWilliams: [04:58](#) And so I became really interested in how regulations are done. How do we come up with regulations? And I was a little bit naïve, I think, going into this. I knew the basic difference between regulations and legislation, but I think I was a little bit naïve as to how the two came to be. I didn't know what amount of regulatory discretion exists and how regulations get implemented.

Jelena McWilliams: [05:23](#) So I basically sought a job in Washington DC and I came to DC to work at a large law firm again, doing kind of the same stuff I knew how to do in Silicon Valley. And I promised myself I would spend two years at a law firm and then go to a regulatory agency that would take me. On usajobs.gov, I applied for a job in the Federal Reserve. And I honestly didn't know what the Federal Reserve was really doing in terms of regulations other than kind of a monetary policy and general banking stuff, but I was a securities and mergers and acquisitions lawyer, corporate lawyer.

Jelena McWilliams: [06:00](#) And to my surprise, I applied on a Monday, they called me for an interview on a Wednesday. They interviewed me that Friday and that Monday, a week after I applied, they basically offered me a job. And so what I didn't know was that we were at the precipice of the financial crisis. And so I joined the Fed in March or April of 2007 and then it was baptism by fire. Basically things just started raining on us in terms of consumer regulations not adequately addressing some of the issues we ran in the banking sector and financial services in general, foreclosures, different government programs, Lehman Brothers, etc. etc.

Jelena McWilliams: [06:44](#) And so I was there throughout all of that realizing how regulatory framework needs to have some fluidity in it, needs to have some agility in it to address the events that you cannot

predict. For the best of the intentions we have as regulators, to make the system work better, to be safe and sound, to make sure we don't undermine financial stability of the institutions and the system itself, I realized we need to have some agility in how we look at things so that we have adequate tools to address anything that may come down the pike.

Jelena McWilliams: [07:22](#)

And so that prompted me to seek a job on the Hill, and I got a job in the Senate, first on the small business committee and then on the Senate banking committee, which then subsequently led to me being hired by a bank, a large regional bank as the general counsel. And then learning really how banks work on the inside and realizing how banks react to some of these regulations, which positioned me rather well to my current job as the FDIC chairman, having seen the regulatory framework as an outside counsel, as an inside council, in-house counsel and as a regulator and as a legislator. Now I'm back in my regulatory chair trying to put all of those experiences together and help our regulatory framework be better in terms of how we address different things that come down the pike including technology.

Jo Ann Barefoot: [08:15](#)

Great. That is a perfect segue to my next question. And we will put the article I talked about in our show notes and listeners should check for it. Yes, now here you are leading the FDIC and you have made it a priority to ... You've used the word "transform" how we supervise banks. How are you going to do that? What needs to happen? Then, how do you get there?

Jelena McWilliams: [08:38](#)

Quite a few things have to happen. Going back to my background, I came to United States because I believed then and I believe now even more firmly, that this is the place of opportunity and this is where great things can happen and do happen all the time. And so if we're going to retain that preeminent place in the world in terms of innovation, in terms of technology, preeminent financial markets, etc. etc., we need to make sure that our regulatory framework is not stifling innovation. And frankly, I believe that in the aftermath of the financial crisis the regulators in particular have become very, very cautious. We're always cautious by nature.

Jelena McWilliams: [09:17](#)

It's kind of the nature of the beast if you're a regulator, but the financial crisis imposed such a shock to the system on every level from an average homeowner to a person that had a credit card to the complex derivatives markets, etc. etc., that you can't

blame the regulators for being very, very cautious about how they proceed with new developments including technology.

Jelena McWilliams: [09:45](#) The downside of that is that you can be so cautious that you stifle innovation and innovation goes someplace else. And the way I look at innovation is that it's fluid and it's like a river. It will flow. It will go. And if there's a rock in the place of the flow, the river will go around the rock and find a way. So innovation will happen regardless of whether we create a framework in the United States for it to happen.

Jelena McWilliams: [10:12](#) What you have seen in the last few years is that innovation going to places like Singapore, London, even some African countries that you wouldn't think necessarily as having the technology to be innovative but they have to be innovative because they're trying to basically survive in terms of their economy, etc. etc. And so my perspective is that we have to do what we need to do to make the system both agile, dynamic, and able to respond to technological changes. And if at all possible, lead in creating the framework for technology and innovation to happen here with our institutions in the United States.

Jo Ann Barefoot: [10:47](#) Yeah. So the FDIC was founded, I believe, in 1933 in the Great Depression and our listeners know I'm a former regulator myself. I love regulators, but it's not an easy challenge to change a vulnerable institution, to transform it. The regulators all are innovation. They all adopt technology, but we're talking about a bigger leap, I think, today to keep up with the exponential rate of change in technology and in the financial system itself. What are some of the initiatives or principles that you're bringing to that challenge?

Jelena McWilliams: [11:34](#) One of the biggest things that I'm looking to accomplish is a cultural change. And you're right, regulators by their nature are hesitant to embrace change. The easiest job I could have is a job where I just say no to everything in the next few years. I have a five-year term. I have three and a half years left. If I wanted to have a really easy job, I would just say, "No" because it's safe, right?

Jelena McWilliams: [12:00](#) The things we have to understand and accept is that no from a regulatory side leads to innovation going elsewhere. So we have to do something. And so what we're doing at FDIC, we're doing several initiatives at a time. And one of them is we're looking at supervising our modernization. I'm sorry. Modernizing our

supervision by looking at ways at how we regulate and examine banks. I believe personally that the examiner of the future at the FDIC is going to be more of a data scientist, a person who understands and knows how to deal with algorithms, a person who has an IT background because that's where the banks are going.

Jelena McWilliams: [12:41](#)

The consumers are expecting digital footprint. They're expecting digital delivery channels. And they're expecting wireless delivery. They're expecting to be able to go on a vacation on some mountain and still be able to transfer money to pay their electrical bill. And so banks are moving in this direction more so, even the smallest community banks are understanding, I think, to some extent, that they need to embrace technology and invest in it.

Jelena McWilliams: [13:06](#)

And so we need to take a look at how we're regulating banks because frankly, as you mentioned, FDIC was created in 1933. Banks of the last century looked very different than banks of this century and the banks going forward. And so our examiners and our examining model needs to adjust to that. No longer are we supposed to go in and take a look at a five-foot pile of papers at a bank. We're moving to more of a digital, remote file review where our examiners can do a whole lot more scoping and review in advance of going into the bank.

Jelena McWilliams: [13:40](#)

Also, how we sample loan portfolios. We basically will ask for a sampling. We'll figure what sample we're looking at and then give the logistics to the bank and the bank would produce those documents for us. If we can employ artificial intelligence and machine learning in our examining process, we would be able to maybe not even look for a portfolio but examine the entire ... For sample, not look at a sample but examine the entire portfolio of loans if we're doing a consumer, say, mortgage exam.

Jelena McWilliams: [14:11](#)

And so I think the way we are going to do business of regulating is going to change. The examining model will change. Our supervisory model will change. That's what the committee for supervision of modernization is looking at.

Jelena McWilliams: [14:22](#)

We're also creating an office of financial and technological innovation and we're calling it FDI Tech. And the intent behind this office is to both take a look at our internal processes and how we utilize technology but more so to look at how banks are utilizing technology and to enable banks to do so. Because if you

really think about it, if you're at a small bank and say you want to offer a small dollar loan product because you're someplace, say, in the middle of America in a rural community and small dollar loans are valuable to your consumers. If you're going to do that, you're going to develop what this product is going to look like. You're going to spend some money on figuring out some consumer testing as to what this product, what features it should have and who it should be offered to, and what your lending criteria should be.

Jelena McWilliams: [15:09](#)

And if you come up with all that research to a regulatory agency, it is very unlikely that your regulator will say, "Go ahead. That sounds great." Your regulator is going to say, "What if ... But what about that? Have you thought about that? Have you thought about the underlying issues? Have you thought about what your disclosures are going to look like?" And that's the best case scenario where the regulator actually engages with you and gives you some feedback. What happens probably most often is that you come, you present your ideas to the regulator, and the regulator just kind of nods and listens but doesn't give you the green light, doesn't give you the red light, kind of gives you a lukewarm yellow light.

Jelena McWilliams: [15:46](#)

And then you go back and you're thinking, "Well, what does this mean? Should I continue? Should I put in \$100,000 into the development of this product?" And so what we want to do is change that model where you come to us and we can even team up and partner up with banks that are looking to offer different products and say, "Go ahead. Roll out your product. We're going to give you a safe harbor. We're going to work with you during the safe harbor period. We're going to look at the data, collect the information, analyze the information with you, figure out are we looking at safety and soundness issues, are we looking at any potential consumer harm here. And if we're not, go ahead. We're going to remove the safe harbor. You have your product. Good luck. Don't mess up."

Jelena McWilliams: [16:27](#)

Or alternative, we'll go say, "Well, there is a safety and soundness issue and there is a consumer issue. We'd like you to fix that and then let's monitor it for another, say, six months together and see how it goes." And give them another safe harbor until they're able to address the issues. Kind of engaging more proactively and not being the regulator of no but a regulator of how, and that's what the intent behind this office of innovation is.

- Jo Ann Barefoot: [16:49](#) Yeah. Wow. Great. I want to go back for a moment to what you were saying about the sampling issue because I think a lot of our listeners don't realize that this is how we examine banks today. The regulators pull samples of loans with some parameters, loans or files and then if you find problems with those, you try to go find more that are like those to see what the scope of it is. And that system was designed back when data was very scarce, computing power was scarce. And today we wouldn't have to do it that way because data is everywhere and so is computing power, very cheap now. And I think one of the most interesting challenges is that the regulators are working toward getting all the information and getting it in real time.
- Jo Ann Barefoot: [17:42](#) The other thing you have is lagging reports. You have quarterly reports and in some cases even annual reports, so you're always looking at something that happened a long time ago. Not always, but often. I'm thrilled that you're focusing on that area.
- Jo Ann Barefoot: [17:58](#) And let me take you back for a second to the culture issue. Again, regulatory agencies are cautious for a good reason. We've kind of built them to be that way. How do you keep that good part of the old culture? I know we have a lot of regulators listening. Have you got some secrets or tips on how do you make cultural change happen in a big, complicated organization like this?
- Jelena McWilliams: [18:29](#) You have to bake a lot of brownies and take them to your staff. I'm only half kidding. Cultural change is, at any organization, at any organization and especially an organization that's been around for 80 plus years, is perhaps one of the biggest challenges that any executive at the helm of an agency or an organization can find themselves in. And from my perspective it's important that my employees and the FDIC employee understand two things.
- Jelena McWilliams: [18:58](#) One is I have a five-year term. So I will leave this agency because I have an expiration date so to speak. I like to say that it's like milk. You get a carton of milk and you want to drink good milk until the expiration date and the regulators have an expiration date because we have appointments. And so me talking about changing the agency and changing the culture and being more technologically advanced and forward looking and carving out a space for the FDIC to be a leader in innovation is not even about ...



Jelena McWilliams: [19:29](#) This is not I came and I wanted to leave my mark on the agency. This is about people who are career public servants here at the FDIC, who are going to outlast my term. They're going to stay here. And they're looking at an agency that was designed back in 1933 to protect depositors and regulate our small banks. Over the years, we went from 20,000 small banks to 10,000 small banks to 5,000 small banks, and we're now at about 5400 banks in the United States in general.

Jelena McWilliams: [19:56](#) And so if you take a look at what an examiner at the FDIC of the past used to look like, it was somebody who would go, drive to a small bank someplace in, say, rural Arkansas, take a look at the bank, examine and spend about two days, three days in the bank and then drive back to their office. The banks are consolidating in the United ... The banking industry is consolidating. We're losing ... Last year I think there were 200 something mergers. We can get you the exact number.

Jelena McWilliams: [20:22](#) And so if we have 5400 banks in the United States left and if we have about, say, between 100 and 200 mergers a year, by the time I leave office at the end of my five-year term, we will have perhaps 1,000 fewer banks. And that's if we don't have a financial crisis. Then we're looking at about a footprint of 4400 banks in the United States. So when I look at my examiners, when I look at my supervisors and regulators, I say, "Do you understand that if the industry consolidation continues and the technology keeps on changing the industry but we don't change with it, our jobs are going to become obsolete.

Jelena McWilliams: [20:58](#) This is not about me changing the culture for the sake of me changing the culture. Everybody wants to leave their own fingerprint on their workplace. It's really about making sure that as an agency we're viable and capable of addressing the congressional mandate that was given to us, which is to protect the depositors and to also protect the financial stability of the United States. And that, frankly, is not just a cultural change, it's a change that requires us to move with the changes in the technology. And so I'm trying to make sure that people here understand this is for them and for the sake of the agency and not just for the sake of change.

Jo Ann Barefoot: [21:38](#) Great. I will say you are a charismatic leader who ... And you use a lot of humor, which I think is very effective in getting people to listen. I'm sure it's having an impact. You mentioned the number of banks. The FDIC regulates more small banks, more

banks, really, than anybody. And we think about the community banks, you mentioned them earlier, they know need to adopt technology. They have a heavy regulatory burden that is disproportionate to what a bigger company has according to the research that I've done. What are the keys for them to come into this both competitively and also in terms of reg tech and regulatory efficiency? What are your thoughts on what they need to be doing?

Jelena McWilliams: [22:34](#)

I think that the very model of community banking in the United States, while viable and extremely important, especially in, I would say, rural communities and some of the smaller communities in the United States, is under threat from bigger players in the industry, bigger banks, non-banks, tech companies, technology. And so small banks, frankly, I don't think have an option but they have to adjust if they're going to survive. Here is kind of the trade-off I'm willing to make. I'm willing to take a look at our regulatory mandates and I'm willing to take at the regulations we have and I'm willing to take a serious look as to are there any regulations we can take or scale down or tailor or put them on the back burner by virtue of how we look at small banks. And they will get some benefit from reduced regulatory burden. And I would like to make agreement with them that they would take the benefit they get from that and apply the resources to innovation and technology. And here's why.

Jelena McWilliams: [23:46](#)

If we believe that the community banking model in the United States is crucial for the survival of some of these communities, and I believe it is.

Jo Ann Barefoot: [23:54](#)

Yeah, I do, too.

Jelena McWilliams: [23:55](#)

I believe that in some of ... I've driven across the United States. I've driven down I-5 and in California and I-10 across the Southern United States. And I have to tell you, I've driven sometimes for hours and haven't seen but a small town. And in that small town, when a bank closes down, a local community bank that's been around for 100 years, the barber shop suffers, the local library suffers, the revenue stream for the public school suffers. This whole decline ... And it's almost kind of the downward spiral. And I truly think that that community bank in that small community is the thread that keeps a lot of things together.

Jelena McWilliams: [24:34](#) And so if you believe that that's the case, then we should make sure that small banks can survive so that we don't have this continuous trend or at least slow down the trend of rural depopulation. And so we have to allow them to adopt technology, but their resources are limited. If they're going to go and invest \$100,000, they got to find \$100,000. And so I do think that there is an opportunity for us to take a look at our regulations.

Jelena McWilliams: [25:01](#) One of the first things I did at the FDIC, I said, "In how many ways do we communicate with community banks? How many ways do we tell them what we expect them to do?" There's of course legislation, there's regulation. Usually we have the frequently asked questions to explain the regulation. We have guidelines and guidances to explain the regulation.

Jelena McWilliams: [25:20](#) And then you go into the myriad of next level of communication, which is supervisory letters and the financial institution letters. And so once I went down this waterfall. I was like, how does a small bank that has a staff of 10 or 12 people handle all of this. It's just a lot of paper. And so I asked staff. I said, "How many financial institutions letters do we have?" And these are generic letters that we send out to all the banks. Now we post them on our website and we tell them, "Yeah, we're seeing this trend in the, say, mortgage market and we want you to be careful about X, Y, and Z." Nothing supervisory that's specific to that institution but to their industry and all of them.

Jelena McWilliams: [25:58](#) We had over 900 of those. And I said, "Well, do we ever archive them? Can we archive some of them? Have some of them been superseded by others and can we do an archiving without losing safety and soundness to all our consumer protection tools?" You know what? We were able to, just by me asking, we were able to retire over 600 of that, so two thirds went away. And now that small community bank with a staff of 12 has one third of those documents to look at versus 900 plus.

Jelena McWilliams: [26:27](#) And so there are little things we can do like that that will, again, provide more ability for community bank to shift their resources and maybe that person that was reading through all of that supervisory communication now can take a look at their IT system and figure out do they have the best delivery channel for their online banking to the extent that they have online banking. And so I think it has to be a little quid pro quo. We're not going to give up on safety and soundness. We're not going

to give up on consumer protection. We have a mandate. We have to fulfill it. We have to make sure that the financial stability is as intact as possible, but we do have some leeway, some regulatory discretion where we can take away some of these layers off regulations and allow these small banks to shift resources to technology and innovation.

Jo Ann Barefoot: [27:17](#)

Yeah. I know in some places regulators, as well as some private companies, are working on machine readable regulations where there's an electronic tag that the machine can figure out does this apply, how does it apply. It's early stage, but that might be part of the future.

Jelena McWilliams: [27:32](#)

It should be. Anything like that would be a huge help for these small banks. You mentioned call reports. Call reports in an ideal world where we are doing well with technological developments at small institutions, call reports should be obsolete. You shouldn't have to have quarterly reporting of data that is then at least a month behind even the end of the quarter.

Jo Ann Barefoot: [27:59](#)

Exactly.

Jelena McWilliams: [27:59](#)

So you shouldn't in April be looking at the data from January. In January you should be looking at data from January. And so you should be able to not even require institutions to provide that level of information. You should be able to, through secure channels, access that information at the banks and have almost a daily update of where are we in terms of the reserves and loan losses and what's happening in the [inaudible 00:28:24] sector and commercial real estate and mortgages. You should be able to have instantaneous feedback. Call reports, ideally, and I don't know if this will be feasible within my five years at the FDIC, but ideally we'll come to a place where call reports are not necessary because we have more immediate, more agile, more precise and more comprehensive, frankly, approach to bank data.

Jo Ann Barefoot: [28:46](#)

Yeah. That's fantastic. Another area that I know you've been very interested in is how can we do better against financial crime. My organization, the Alliance for Innovative Regulation or AIR, held a tech sprint in the summer along with the Financial Conduct Authority in London. And we were very honored that you were our keynote speaker and you were a judge in the hackathon, which we were thrilled about. What are you seeing on financial crime in terms of the opportunity for technology to

help us do a better job? Because we know the UN numbers say we have a 99% failure rate in catching financial crime these days.

Jelena McWilliams: [29:27](#) And first I want to compliment you on that event. That was such a phenomenal event and if I recall correctly, I pretty much offered the job to everybody who participated in the hackathon.

Jo Ann Barefoot: [29:35](#) You did.

Jelena McWilliams: [29:36](#) I said, "We will hire you all. Just come and apply."

Jo Ann Barefoot: [29:39](#) You did say that.

Jelena McWilliams: [29:40](#) An incredible event, so thank you. You truly are a leader, the leader in this space and I'm actually humbled to be even engaging with you on these issues and I want to thank you for your leadership because in the end you do represent the US on a global scene in terms of where we are with innovation and trying to move us forward.

Jelena McWilliams: [29:58](#) BSA and ML, Bank Secrecy Act and Anti-Money Laundering efforts, probably one of the most expensive areas, that and cybersecurity, that small banks, large banks have to spend money on. BSA and ML are such important areas for our regulatory agencies but also for the enforcement agencies and intelligence community. And so I was shocked, frankly, when I looked at the data and realized what small percentage of SARS, suspicious activity report filings get reviewed. And I was even more shocked when I realized that to this day they get mainly reviewed manually.

Jelena McWilliams: [30:41](#) And then my shock just kept on deepening, to tell you the truth, when I realized that there is not really a uniform way of reporting data. And so we had meetings with law enforcement and intelligence communities in FinCEN. When I say we, the potential banking regulatory agencies. And one of the questions I ask is, "When you get a SAR filing from one of my banks, somebody can write you a five paragraph answer to a question, somebody can write a three sentence answer to a question. How do you look at that?" They said, "Well, we have to manually process them." And I said, "Is there a category-

Jo Ann Barefoot: [31:14](#) You have to read it.

- Jelena McWilliams: [31:16](#) Yes. Yeah, they had to read every line of that and figure out, "Is there a connection?" And somebody may talk about ... The two banks may talk about the same activity in their SARS filings, but they will use different phrasing. And so I asked law enforcement agencies in FinCEN, "As we look at these filings, is there a list of categories? Can you give me the Nigerian prince is sending me money category." And so as I'm filling out if I'm a bank and I'm filling out a SAR, I can just check that category and at least now the law enforcement will hopefully be able to look at all of those categories as a grouping and see if there's a pattern or a practice.
- Jelena McWilliams: [31:54](#) And so I think there's effort now to get to a model where there's more uniformity in these reportings where more artificial intelligence and machine learning models are applied to scanning and reviewing these and looking for patterns. I think we are behind, but I do applaud the efforts at both the FinCEN and the law enforcement and intelligence community organizations in trying to move the ball forward in using more technology to be more effective because the current system is simply not effective.
- Jelena McWilliams: [32:25](#) And also, if I can add this, you should have a system where technology is taking a look at reviewing these SARS filings and also providing feedback to the filers. So a bank would file a SAR and say bank A files a SAR, bank B files a SAR, the machine learning program at, say, FinCEN realizes that bank B and bank A might have talked about the same activity but would like to give more feedback to bank A as to how to file a similar SAR in the future so that FinCEN can do a better job reviewing that. And so FinCEN should be able to give that feedback to bank A that's instantaneous. And law enforcement agencies should be able to give that feedback both to FinCEN and the banks.
- Jelena McWilliams: [33:09](#) I think the model needs to be more interactive and it needs to be more of a, not just a two-way street but more of a network and a spiderweb of a communication that's going back and forth constantly among these entities and the filers banks and other financial institutions to get to a better place in the system so that we don't retroactively look back and figure out what was the connection between, say, unfortunately, a terrorist activity and certain people or groups and organizations but more proactively [inaudible 00:33:40] to take a look at that.

Jo Ann Barefoot: [33:42](#) Yeah. There's so much work going on in the better sharing of information and keeping secure. And I do think it's one of the most exciting fields. And I also have the impression that you've done more lately, you and your colleagues, your peers at the agencies in working with law enforcement on these issues.

Jelena McWilliams: [34:02](#) Yes.

Jo Ann Barefoot: [34:03](#) And they're the end users of it. You need to be sure that the regulatory agencies that are overseeing the compliance process are helping that process produce high quality information for law enforcement so they can fight the crimes and terrorism.

Jelena McWilliams: [34:16](#) And this is one area that it puzzles me sometimes. Everybody wants to do well here because it's to everybody's benefit and the benefit of the system to produce good SARS filings to catch the bad guys, to not lose money through laundering and fraud. And so in a system where everybody wants to do well and contribute to the betterment of the system, let's remove the archaic obstacles and get to a better place. And that's really why we are engaging with law enforcement and intelligence communities as well as regulators.

Jo Ann Barefoot: [34:51](#) But still at the same time, of course, having to protect privacy. Do you have thoughts ... It seems like we're entering into a new era in which there's going to be a lot more regulatory and legal scrutiny of how we use data, how we protect it. It's not really a financial industry issue primarily. It's everything we're doing. Do you have thoughts on the challenges and maybe some of the key things we should be thinking about to get the benefits of all the data we have today and still protect people's privacy?

Jelena McWilliams: [35:26](#) Yeah, privacy is a huge issue. And for me particularly, as I mentioned, I grew up in communism and the joke, "Oh, the big brother's always watching you." And you come to a society where you hope that you have certain privacy protections. And I think for a long time, that was the case. Technology has become so pervasive and our willingness to take the benefits of certain applications, products, software and reveal personal information and allow access to our personal information throughout that, sometimes knowingly, sometimes not so knowingly, is frankly staggering. We have come to a place where so many entities have information about you as an individual that it's a little bit scary. From my personal perspective and given how I grew up, I think it's very scary.

Jelena McWilliams: [36:22](#) Having said that, there is an ability here for us and an opportunity to work on the privacy issues and inform consumers, number one. I think that the best protected consumer is an informed consumer because so long as you have the information at your disposal, you should be able to make good choices. Now, there are some cases in which consumers won't be able to make good choices no matter what information you provide to them, and I think those are opportunities for government and regulators to step in and do something more and legislators as well, frankly.

Jelena McWilliams: [36:52](#) As more and more countries are moving to what looks like, or in some form, open banking, there is an opportunity for us in the United States to visit those issues and figure out what makes sense, recognizing full well that some of these issues will require legislative action. On the regulatory side, we have privacy laws through Gramm-Leach-Bliley and some other statutes. And we take privacy issues very seriously, but to tell you the truth even we on the regulatory side don't always know how consumer information is being used.

Jo Ann Barefoot: [37:26](#) Yeah. I know we're running short on time. Let me ask you one more. The US is unique in the world, I think, in the complexity of our regulatory structure. We have five federal supervisory agencies for depository institutions and we have 50 states and we have many other entities as well. And I'm in the school of thought that it makes it harder for us to move quickly. There's good reason for it all, but very few people would say we would design it this way if we were starting over from scratch. My sense is that you and your colleagues in the other agencies, the other agency heads are doing a lot of collaboration today with each other, closer communication and so on. Talk about that. Do you think the other agency framework is challenging and what are the best ways to make it as effective as it can be?

Jelena McWilliams: [38:30](#) It is exceptionally challenging. And I will tell you that even before I joined FDIC as chairman, I had exposure to interagency work. Speaking of privacy, I was working at the Federal Reserve on the short form privacy notice that came out of Gramm-Leach-Bliley. Gramm-Leach-Bliley became the law of the land in '99. I joined the Federal Reserve in 2007. In 2007, the agencies still did not have an interagency guidance on short form privacy notice. And so just look at the number of years. I think it was finalized, I believe, in 2009. So we're looking at a decade to finalize a document that was a short form privacy



notice that the consumer would get to understand how a bank or a financial institution is using their and sharing consumers' information.

Jelena McWilliams: [39:20](#)

And I will tell you from personal experience, having worked both as a staff attorney and now as the principal at an agency, the process is arduous. You're absolutely correct. If you were devising a framework, a regulatory framework in the United States, you would look at the one we have now and hopefully some other place and you would say, "Oh, forget it. There's no way I'm going to replicate that. Why would you?" But it is what it is. We have it. Each agency came out of some crisis and lessons learned and Congress gave us different mandates slightly. And so we owe the public, we owe Congress, we owe the United States a duty of working well together. And at any cost, we have to come to the table and come up with mutually acceptable solutions to mutual problems.

Jelena McWilliams: [40:08](#)

And I frankly don't care what your agency's mandate is. I do and I don't care, but what my agency's mandate is, when we are at that table, we are addressing issues that are pervasive and obviously there was either a market failure or a regulatory failure that we need to address and that's why we're at the table. And so I have put aside any hubris a person could have and brought sheer humility to these discussions saying, "Listen, I don't care what happened in the past. I don't care why this [inaudible 00:40:39] got stifled back in 2016, '15, '14. We need to get it done. Let's think about the ways to do it."

Jelena McWilliams: [40:47](#)

And so I think it requires a lot of goodwill and people who are willing to set their personal feelings aside, frankly, sometimes and just do the right thing. And so you have a handful of regulators that I'm working with right now who are just wonderful. And when I say handful, it's the regulators I'm working with, not because the others are not, but you have great leadership at the Federal Reserve and the OCC and the Securities and Exchange Commission, CFTC and those are the agencies that we primarily work with.

Jelena McWilliams: [41:18](#)

And it's a great environment where truly it feels, frankly, more of a family sometimes than just as a regulatory agencies meeting for a working group or an FSOC meeting. And I intend to continue doing that and, if necessary, I will serve as a bridge among the agencies if necessary and I will lead. And again, I don't bring anything but sheer appreciation for our financial markets and our regulatory system and the benefits we have in

the United States from being able to partake in those financial markets and be protected by our regulations.

Jo Ann Barefoot: [41:55](#) I think that is a perfect note to end on. I know people can get information about the FDIC at [fdic.gov](http://fdic.gov), correct?

Jelena McWilliams: [42:02](#) That is correct. And to your audience, which I'm assuming is going to involve a fair number of innovators out there, the FDIC's always hiring wonderful people so you will have to allow me to make the pitch for them to join.

Jo Ann Barefoot: [42:15](#) Do it.

Jelena McWilliams: [42:15](#) ... a great agency that frankly is looking to change the way we have been doing the business of regulating and examining for a long time, not for political reasons, not for reasons that we're trying to do this or that, but purely for reasons of advancing innovation and making sure that that regulatory framework can grow and allow innovation to grow as we move forward and so that the United States remains the preeminent place to do business in the world.

Jo Ann Barefoot: [42:43](#) Since you've brought that up, you had a wonderful post where you said something like, "We can't let you bring your pet to work" and so on, but give us that pitch. Why should people come to the FDIC?

Jelena McWilliams: [42:56](#) What I said, and you're right, we can link the op-ed to your podcast as well. What I said is that we can't offer you free coffee, you can't come to work in Birkenstocks, slippers, socks. You could, hopefully if your manager allows. And for most part, we don't have free coffee on every floor, but we do have a mission and we do have a vision for the future of banking and technology. And we're looking for innovators and people who are visionary.

Jelena McWilliams: [43:26](#) I'm not asking for a lifetime commitment. I'm asking for two, three years from people who are on the cutting edge of technology. Help us set in motion the changes to our regulatory system that will allow innovation to foster. Help us make it easier for banks to team up with fintechs and create consumer products and delivery channels. Help us get to a place where banks are utilizing technology and we are utilizing technology alongside, where call reports are truly obsolete and we all offer a sip of free coffee on a floor where it's free. Basically, talk about the good old times when you used to take a look at

thousands of pages in call report data and analyze what it means three months later and when you weren't able to foresee financial crisis because the information and the data you were getting from the regulated entities was 120 days behind. Help us get to a better place.

Jelena McWilliams: [44:19](#)

And I can promise you in return that we are going to lead the change and we are going to be the change. And I have three and a half years left in my mandate and I'm hoping that the changes we put in place now and the basis for innovation that we are going to put now here at the FDIC is going to outlast me and many future chairmen and that the FDIC will truly be the leading agency for innovation in the United States prudential banking regulatory framework.

Jo Ann Barefoot: [44:49](#)

I'm glad we took the time for you to say that. It's an inspiring message. Jelena McWilliams, thank you for a wonderful conversation. We really, really appreciate it.

Jelena McWilliams: [45:00](#)

Thank you. And I have to tell you, you're one of my most favorite former regulators.

Jo Ann Barefoot: [45:04](#)

Good.

Jelena McWilliams: [45:05](#)

Thank you for leading the charge with that perspective on innovation and I look forward to see what all you bring to us in the future. I'm excited.

Jo Ann Barefoot: [45:14](#)

Thank you so much.

Jelena McWilliams: [45:15](#)

Thank you.