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HOW NEW YORK IS REGULATING FINANCIAL SERVICES

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FIRESIDE CHAT:

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KLEIN: Good morning. I'm Aaron Klein. I'm a senior fellow and the Miriam K. Carlinter Chair in the Center of Regulation and Markets and Economic Studies at the Brookings Institution. It is my pleasure today to welcome New York Department of Financial Services Superintendent Adrienne Harris. And before I introduce the superintendent, I wanna take a moment and talk about why this is incredibly important. We're having a conversation here on the future of financial regulation at a critical moment in Washington where the federal government's role is being radically changed. Hold aside whether you think it's good or bad, I have my opinion, it's happening and it's important to understand that in American history the federal government's role in financial regulation has evolved and expanded radically but was not here for basically the first 100 years of this country. My favorite Republican president, Abraham Lincoln, is the one who created the concept of a national bank. Prior to that, all banks were chartered at the state level. And as a result of that and other reasons, about 80% of banks today are still state chartered. You have state-chartered credit unions. The insurance industry is entirely state chartered, a situation that becomes complicated when you try to explain to anybody else in the world, who when they ask you, where's your federal, where's America's insurance regulator? And you say, well, we have 56. The role of states in the vanguard of regulating our financial products has never been more important than at the moment, has not been more important, I would argue, in the last generations since this moment where the federal role appears to be pivoting substantially.

Now, as those of you who know me, know my rank order of states has my home state of Maryland number one. But even a proud Marylander like myself will acknowledge New York supremacy when it comes to financial services. No, New York is the capital of America's financial system and frankly the world's. And no state is more important in safeguarding, promoting, but also advancing America's financial services system than the state, than the empire state. and sitting at the helm of the Empire State, I can think of no better person than Superintendent Harris. Superintendent Harris comes to the New York State job with a deep experience in Washington, where she served as special assistant to the president, as well as senior roles in the Treasury Department. She comes from academia, where she worked at the University of Michigan and thought through these issues. And importantly, a role in financial technology and in finance in the private sector. You often hear this idea of a mythical unicorn of who would be the perfect person who could bring together experience from government, from the private sector, and from academia. And it is my great pleasure to welcome to the stage such a person, and Superintendent Harris, for what I think will be a very insightful, compelling, and hopefully fun conversation about the state of financial regulation in New York. in America and the world.

As I said there, you came to your job almost four years ago with this kind of trifecta of experience, but you also came with a world view about how financial regulation works. The way that I interpreted your world view, and please correct me, is that there's balance between market growth and consumer protection. that are not in some sort of existential crisis, but are actually a mutually supportive situation that can be harmonized to help each other. One, talk to me about that world view and how that's played out in practice running a major regulator and how you've seen that work through.

HARRIS: Well, first, thank you so much for having me for the kind introduction. It's good to be back here with you and the folks at Brookings. I think you've articulated my worldview very well. I think very often in financial regulation, these things are seen as mutually exclusive objectives, right? You can either be good for business or you can protect consumers, but you can't do both, which is a premise I just fundamentally reject. But I remember... From my time in Washington, it was we protect consumers and it's big, bad corporations and companies, right? If you're in the private sector, it's like, oh, those terrible regulators, those terrible people in government, they don't understand our business. And I just felt like you can protect consumers and markets and be good for business all at the same time. And in fact, as you said, these things actually reinforce one another. Now it is harder to do them both. than to do one or the other, but it's entirely possible and those things do reinforce one another. And so we've seen it in New York and it's part of my motivation for coming into this role is I thought there's no better place to prove out this thesis than in the financial capital of the world, than in a regulator that covers banking and insurance and mortgage and student lending and pharmacy benefit managers and, and, and, right, like this is the perfect place to prove this thesis. But it takes a lot of work. It takes a lot of stakeholder engagement. It takes being data-driven, right? You have to really just be willing to call balls and strikes, no matter sort of the political consequences of those calls. And I think the team at DFS does this very, very well and it's elevated the organization to really a preeminent global regulator, I think very well respected, both sides of the aisle around the world as. as a group of people that is data driven and that calls balls and strikes and does their job very well.

KLEIN: All right, so I was just in spring training, so let's lean into the baseball metaphor, and let me throw some curve balls and a couple, a little bit of high heat here. All right. You guys are currently talking about buy now, pay later, and earned wage access, and I wanna talk about your philosophy on that mirroring those things, because people have very different perspectives on whether these are good or bad or this or that. We even got a question online. from Dashiell Leary, CEO of Ezra, who asked specifically about earned wage access. How are you approaching building a regulatory framework for BNPL and EWA that mirrors this philosophy?

HARRIS: Are they balls or are they strikes? What are they? Well, so I think the thing with any innovative product, and we've done this very well on crypto, and I think we'll duplicate the same playbook, we'll switch sports metaphors maybe a little bit, we'll duplicate the playbook when it comes to other innovative products, which is to say there is work that's been done in existing regulatory frameworks that can be applied to innovative products, right? So lending is sort of the most obvious one in the context of BNPL or earned Wage Access. but it doesn't completely fit, right? And especially if you look at the different business models in earned wage access, the different business models in buy now, pay later, right? They take, there's tipping and subscriptions and pay for service, right? There are all these things, there are all these ways these businesses manifest, which means that existing regulatory frameworks are a good place to start, but not necessarily a good place to finish. And for us, that means then really engaging with all of the stakeholders, and this is part of my three P's. which is policy process and people. On the process, you have to start with data and desk research, and then it's really important, and we do this with everything we do, where we're talking to industry, we're talking to academics, we talk to advocates, we talk to legislators, we talk to other regulators, we talk to technologists, to make sure we really understand the way the products are working. to make sure we understand the opportunities, right, the gaps that they're filling, and that we understand the risks. And then we start with an existing regulatory framework and add to it, or in some cases maybe subtract from it, to make sure that it's fit for purpose. And we're not just trying to put a square peg in a round hole.

KLEIN: Yeah, so, I have some data, haven't released it. It's hot off the press of surveys that we've conducted thanks to a generous grant from the Robert Wood Johnson Foundation, surveying some low-income folks as to how they borrow. And what BNPL was pretty high on the list. But what blew my mind was we asked the question, if you had to come up with, you know, 400 bucks, how would you do it, right? Number one answer, borrow from friends and family. Thirty-six percent of everybody, and if you take away the no answers, it's closer to half, which again, very interesting insight, not even the formal financial sector, and it's one thing to default on a lender, it's another thing to default on your uncle.

HARRIS: Yeah. Yes.

KLEIN: And it's a very, very different process. So I commend you for being data-driven because one thing I found in this conversation is people take their worldview and then they think that worldview applies to this product and service. And most of the people taking this view have a platinum credit card. They don't need BNPL, right? And they don't care when their direct deposit hits. And they say, oh my God, I can't believe you tipped. $10 for two days of earlier access to your thing. You say, well, an overdraft's 35.

HARRIS: Well, and it's interesting you say that, because in engaging with stakeholders, right, they all, they come with their agendas, they come with their point of view. And we get, there was a time when we were looking at a product and people were coming in and saying, well, the marketing, you need to require X, Y, and Z of the marketing and the marketing disclosures. And I said, well wait, have you looked at, right, what do the marketing disclosures currently say or not say? And so I tasked the team, I said, go out, go to the websites, right? What do the marketing disclosures say? And we developed a taxonomy. And sure enough, by and large, they said, they already said what these advocates wanted the marketing disclosures to say. Now that's not to say you shouldn't make a rule, you shouldn't make it the standard, right? But people sort of came in with this assumption that this very important protection was not present at all and wasn't happening. But if you went and looked at the data, it turned out not to be the case. Which again, isn't to say you shouldn't put the standard, right, and go through the rulemaking, but starting with the premise of what is fact is so important.

KLEIN: It's incredibly important, you're tempting me to get off track with the whole thing about the failure of disclosure regimes and I remember walking in just after Graham Leach Bliley had been done and they'd solved consumer privacy by the disclosure regime. Has anybody in the audience ever read one of those disclosures you got in the mail?

HARRIS: I mean, other than the regulator.

KLEIN: Ok. You got a problem, man. Right, because that thing, did you understand it? Because that, you must, three JDs? I mean, it's insane, that process. All it did that I could tell was make a lot of money for the paper industry and help the post office.

Let's talk a little bit about data though, because one of the pieces of data research I'm most proud on is a study I did on check cashing, which when I came to Washington, check cashing was affiliated with being unbanked. But according to the data, 70% of people that go to a check casher have a bank account. Why? Check casher gives you money immediately. Banks don't. Banks sit on your money for a while. You regulate check-hashers, and you rolled out some policy here during a prior thing. Tell me about your process through check-hashing, because from beginning, did policy change to what you've observed has happened?

HARRIS: Yeah, absolutely. And you and I have talked about liquidity and banks and why people need check cashers and other services. So early in my time in the role, I came in and the team put on my desk this piece of paper and said, like, sign it. I was like, well, I'm a JD. I'm going to read it before I sign it. And it turned out in New York that check cashers were entitled to an annual automatic fee increase tied to CPI. And it was at the time when inflation was really just starting to really ramp up. And people were talking about supply change. They were doing this. And I was like, wait, but they're cashing checks. What semiconductor are they waiting for in the ports? I don't understand. Why is this tied to CPI? Absolutely under no circumstances am I signing this increase. I don't think this methodology makes sense at all. So we put in place an emergency reg to freeze the fees where they are. And I said, we need a whole new methodology. Thank you for watching! And so my amazing team went out, right? We looked at what other states do. We looked at, because we're also prudential regulators, right, the cost structure of the check cashers, trends in the industry, because obviously there are fewer checks, right? So there's fewer check, there's less check cashing. But we looked at like, what are really their costs and what can people bear? And so how can we be a good prudential regulator but not penalize consumers? And we came up with a completely new methodology that had a two tier pricing system, a lower fee for public benefits checks and a different fee for private checks, right? Got rid of this annual automatic increase. It's no longer tied to CPI, but we allowed the industry to come in at regular intervals and make a case for an increased fee and a changing business environment, changing cost structure. So we put the new reg, the new methodology in place. We got sued. That's OK. I remember I mentioned to the governor, to my boss, I said, we're going to do this, and we're going to get sued. And she was like, fine. This is the right thing to do. Fine. They lost. We won. So the methodology stands. And as a result of this methodology, we've now, in the last two years, saved New Yorkers over $20 million in check cashing fees. But we're a prudential regulator, and we're balanced, and we're data-driven. So in our exploration of all of this, we realized there was another reg on the books that required check cashers to have a certain square footage in their physical footprint. And it was born from the days when examiners had to go in person, sit at the check casher. And so this reg was written so that the examiners had space to go to the check casher and sit. You don't really need that anymore, right? There's a place for sort of in-person physical examinations but it doesn't have to be that way and of course the biggest part of their cost structure is space because we're talking about New York and largely New York City. So we changed that reg to lessen the square footage, the minimum square footage requirement for check cashers therefore reducing their cost structure as well because it was just an outdated reg. outdated rag.

KLEIN: So you found a situation where the reg was driving up the price, but also a different reg that was driving up the price they could charge in a market that's... and you compressed them both

HARRIS: Compress them both

KLEIN: And it wasn't just $20 million to New Yorkers. It's $20 million to New Yorkers who go to check cashers, right?

HARRIS: That is right.

KLEIN: Right. That is talking about income redistribution, right? That is helping lower income workers, right? I don't think we need three PhDs to talk about the correlation in income and check cashing usage.

HARRIS: Right. And well, and it was interesting, because people push back, and they say, check casters are so essential, and you're going to put them out of business. And I said, well, first of all, there are fewer checks being written, there are fewer checks being cashed. This is an industry that's been in decline. But we're a prudential regulator. We're not going to put anybody out of business. We've looked at the cost structure. We've looked at the profit margins. But more importantly, what I said to people is, just because you're essential doesn't mean you get to be predatory. So it is imperative for us to use the data and to do the right thing by New Yorkers here.

KLEIN: They're one of the factoids of, there are more check cashers and payday lenders in America than McDonald's and Starbucks combined. Is that really the right number, right? The reason you go around the world and don't see check cashers is around the world, the check clears instantly. Only in America, thank you, Federal Reserve, does the bank get to sit on your check, which if you cashed Friday, February 28th, you didn't get till Tuesday, March 4th, and that created a bunch of overdraft. Let's talk about overdraft.

HARRIS: Let's talk about overdraft.

KLEIN: In the four years of the Biden administration, the federal bank prudential regulators were ostriches on overdraft. Occasionally, they stuck their head out of their sand to give a nice speech, and then when it came time to change the rule, write a reg, actually enforce an overdraft rule on the banks or small credit unions that rely on overdraft, sometimes for 300% of their net profit, they were nowhere to be found. Now, the CFPB and the last administration try a data-driven overdraft to regulate it as credit, to look at the fee and cost structure, and maybe that policy will survive. I think the House just had a committee vote to overturn it. The new administration may try to pull it even though the rule is finalized. The National Credit Union administration took a powerful small step right here on the brooking stage and announced just the publication of data. We're just going to have credit unions give the data, the same data banks did. The Trump head, one of the first things he did was yank the data away. So we don't know how much they charge. Really hard to criticize when you don't know the facts. And really bizarre that a regulator would want to hide facts from the largest credit unions in America about their overdraft revenue that banks produce. So this is what's happening in Washington. From my perspective, it's been bad and it's getting worse. What have you done?

HARRIS: Yeah, so we actually just proposed some overdraft regs for our state chartered banks and credit unions that do a number of things. And it's really a nuanced rule, because we looked at, what are you charging? How are you charging? How many times a day are you charging? How are you thinking about authorized positive, settled negative? How do you think about re-presentment? So the rule has a lot of prohibitions, but all based on practices that we were seeing. So the proposed rule prohibits overdraft fees over $20. Thank you for watching. Have a great day. It would prohibit an institution from charging more than three fees in a day. It would prohibit institutions from charging an overdraft fee that exceeds the amount of the transaction. It would prohibit the institution from charging an overdraft fee on a transaction that's instantaneously declined. It would prohibit fees on authorized positive, settled negative. It prohibits the double fees. of transferring money when you can link your accounts and have overdraft protection. It prohibits the double fee charging of transferring the money for the overdraft protection and also charging the overdraft fee. So we really picked apart, and my team hates it when I say, let's run the water through the pipes. How does this work in practice so that we can develop actionable, practical guidance or regulations? So we really looked at all these things. and wrote a proposed rule which is now out for comment with all these prohibitions in it.

KLEIN: Right, so you got rid of the $40 cup of coffee, right? I get the five bucks and I get the $35 overdraft fee. You came up with 20, the Bureau came out with five. Talk to me a little bit about that difference.

HARRIS: Yeah, I mean, I think some of it, as you reference, there's so many more banks in the US that are state chartered than federally chartered. They tend to have more diversity in size. So we represent banks that have a few million dollars and then regulate banks that have a few million dollars. And then we regulate GSIBs, on the other hand. So are we having

KLEIN: It's globally systemically important banks.

HARRIS: So we had to come up with a rule that was going to suit that diversity of institutions, really.

KLEIN: One of the things I found that's been really interesting is when I started in this overdraft world, there were two data numbers. There was a CFPB estimate that said there was $15 billion of overdraft fee in the industry, and there was this MOAB's estimate of over 30. And it wasn't clear the difference. And the more I dug into it, the more I dug into it that the estimates were based on a question of whether or not the smaller the institution behaved similar to the institution. And it turned out they don't. The smaller institutions do more overdraft generally per customer than the bigger ones. Now, I'm not saying that's because the customer profiles are the same. What I am telling you, and so the number was way higher than 15, particularly when the credit union data came out. How much, I still don't know how mobs got in the 30s, but in the 20s maybe. What I didn't appreciate when I started looking at institution and institution is the heterogeneity, right? Anybody here bank at Wood Forest? Wood Forest Bank generated more money in overdrafts in 2019 than Citibank. Anybody here heard of Citibank? Okay, now Citibank's eliminated their overdraft fees. I can't use that stat anymore, but I can tell you that last year. Bank of America had about $2 of overdraft revenue per customer, a little less. And Armed Forces Bank, I think, was around $75 per customer. One group is banking mostly enlisted military personnel. Everybody here happy that they're paying about 35 times as much overdraft fee than the average American there. And so cracking down like this... It'll make a difference, but for a couple of your institutions, they're business models based on these high fees.

HARRIS: Yeah and look I mean this is I think the balance right in your prudential regulator but you also do market conduct but this is why the data is so important and I think for us saying nothing over $20 but then additionally no fee that's over the transaction amount right and so you can see how those things play against each other. But we have to be... careful of those small institutions, right? We can talk about more whether it makes sense that small institutions need to make so much of their revenue from.

KLEIN: I mean, if you do nothing than make overdraft fees, shouldn't you change your charter to check casher and just be honest about it?

HARRIS: So, but I think the complexity of the rule is meant to address this diversity of institutions. So, as I said, it's in the comment period now. We'll see what comments come in, what adjustments we need to make, and go from there.

KLEIN: All right, well, I'm going to make you a comment. Let's talk about digital assets, because we're going to go from overdraft to crypto. Crypto's all the rage here. Legislation, there's a potential markup on stablecoin bills. The president held a summit. He's also hawking his own meme coin. We can discuss what that means. But we went through crypto winter with the fall of FTX. Uh, uh, we, we've seen a- a flip-flop in the federal government, at least so far, Trump won was not a crypto guy, right? And the Biden administration was definitely, you know, didn't lean in. You guys in New York have been in the lead on this with a bit license. What have you, let me ask you, what have you been doing as a digital asset regulator? And there was a question we got online from this, from Columbia University's Abby Joseph Cohen. who asked specifically about your thinking on consumer protection and digital assets. So big picture digital assets, and then specifically to Professor Cohen's question about the consumer protection, which ties to your worldview.

HARRIS: Yeah. Well, so the digital asset space is such an interesting one. Because you hear so much, especially in Washington, prior, don't regulate it because you will legitimize it. And then sometimes I would talk to my fellow regulators around the country and around the world, and they'd say, well, we don't understand the value of these things. Like, why do they exist? You know and My view is that's not really the regulator's role, right? The instruments are here, the products are here, they can do a lot of damage, they need to be well regulated. And so DFS is really the only prudential regulator, really active prudential regulator in the country around digital assets. So we have, as you noted, the BIT license. So in order to do virtual currency business in New York, you have to be licensed by DFS. You can do that either through the BIT license or through a limited purpose trust charter. The licensing is an incredibly rigorous process. So for instance, FTX made known that they were seeking a license in New York. They did not get one, nor did Voyager, nor did Celsius, right, any number of other companies. Then we have full scope examination and supervision. So the same way we examine banks and insurance companies, right, we have a team of examiners. They go in, they examine the companies at regulated intervals, or regular intervals. They have MRAs and MRIAs, and when we need enforcement actions, and we can talk about that. We've done now, in addition to the regulations, nine pieces of regulatory guidance. So the only guidance out there on stable coins is DFS, and has really become the basis for a lot of the bills that's been working their way through Congress. Customer service, blockchain analytics, market fraud, all these things we've done guidance on. And so you see, but this goes back to I think the first question, where we have really rigorous standards. It's all very transparent. And then you see that we have responsible companies regulated in New York, and the market there continues to grow in a responsible way. And no company is perfect, just like banks and insurance companies, we bring enforcement actions, and we've done so with crypto. So we brought a $100 million action against Coinbase. In fact, I brought the first enforcement actions in DFS against crypto companies, even though we've had the authority since 2015. I brought a $100 million action against Coinbase, a $30 million action against Robinhood. Most recently we had an action against Gemini where we were able to get over $2 billion in virtual currency back to consumers in the form of restitution. I actually got this lovely note from a gentleman in Ohio saying, thank you for getting my virtual currency back. I'm gonna come and spend it in New York. So I sent that to my boss, like DFS does tourism. Now, we are a multi-faceted regulator. So I think on the consumer protection piece, we've got the rules and the guidance on the front end. And then when we need enforcement, we bring enforcement actions, right?

KLEIN: Well, I fear you may need to be a little more on the enforcement side if Washington does a pivot from being heavily on enforcement. The SEC brought a lot of enforcement cases the last few years, some of which they won, some of which they lost. But if the enforcement officers take a dirt nap and they all get sent home and some 19-year-old Doge employee just says, you know, you guys go back, you guys may be the last people left standing.

HARRIS: Well, look, I mean, this is the beauty of having transparent rules is everybody knows what the rules are. You know when you violate them, right? So we don't do regulation by enforcement. The rules are right there for everybody to read and see. The guidances are right there for everybody to read and see. So when we have violations, and by the way, the same cybersecurity regulations that apply to our banks and insurance companies apply to our regulated crypto companies, the same BSA AML regulations that apply to our banks.

KLEIN: Bank Secrecy Act and anti-money laundering, very important in the crypto space.

HARRIS: Those apply to our regulated crypto companies as well. So the rules are right there for everybody to see. So when there are violations, some of them we can deal with in the supervision and examination context through the MRAs and MRIs, the matters requiring attention and matters requiring immediate attention, and make the companies remediate in an exam cycle. Some of those violations require enforcement actions. But for us, it's really important to use all of the tools in our regulatory tool belt so that we're not making regulation by enforcement. that we have transparency. And what we see is our companies will sort of mark it on the fact that they are regulated by us. It's really become the good housekeeping seal.

KLEIN: I mean, I wish more people understood that FTX hadn't been allowed in New York because a lot of people lost some money there.

HARRIS: A lot of people lost money, but if you look at the New Yorkers that lost money compared to other states around the country, New York fared very, very... well

KLEIN: Well, and this is something that I think is difficult to implement. It's easier to understand than implement, which is if you have a tough standard and people don't make it, and that means that you have fewer of that, you're not retarding innovation and growth if you have all these other things going. It's like the point on banks. Like if you have 5,000 banks and 12 of them are addicted to overdraft and they get their business model dies because there's a sensible regulation. Now you have 4,988 banks and I think we're okay.

HARRIS: Well, and it's interesting because when the BitLicense was originally put in place in 2015, there were companies that left the state, right? What we've seen now that we've operationalized it better, so like our crypto team is 60 people, right? Examiners, financial crimes people, forensic accountants, crypto natives, like we've got some amazing crypto bros on our regulatory team, right? So it's a really diverse group of people. But what we now see is the demand for our license and charter just goes up and to the right, right? That rigor, that transparency is important for responsible innovators. And so it's not just about the rules on the books, but when it's executed well, when it's operationalized well, you see that that drives innovation.

KLEIN: You may be in that part of cycle because you also may be required to step more. Let's drill down for a second on the nitty gritty because you mentioned right off the top of your head how many people were in that office.

HARRIS: Yeah.

KLEIN: And you have a huge management component. And one thing that is, as a policy person, I often overlook and fail to appreciate the importance of regulation, of management, of running an agency, right? You have to be efficient, you have to be effective, you have to be responsive, right? You had some process in place that allowed that person in Ohio's note to reach your desk.

HARRIS: Yeah, yep.

KLEIN: How do you, how have you been doing at DFS to modernize a department, to have high quality folks in a functional and positive work environment? Because without that, your regulator can really suffer and we've seen some problems in Washington that I sadly think are going to get worse before they get better.

HARRIS: Yeah, it's so interesting because I was sort of warned about the management challenges, right, because I think a lot of the regulators in DC, there are career professionals who sort of do the management and the operations of the agency itself, and so the regulators, the political appointees, are very focused on just the regulatory and policy piece. And I get to do both, which I really love. So I think there's a number of things that we've been focused on. One of the first things I did when I came in was to do a strategic analysis of our staffing, because... There isn't a regulator on the planet who will say they have enough staff. But we did a really risk-based analysis of what are the really terrible things that will happen if we don't have enough people doing X or Y or Z. And we immediately identified those areas and started hiring, started promoting. We hadn't had promotions. The agency hadn't had promotions in many years. They hadn't hired examiners since 2018, and examining is really the bread and butter of what we do, right? The agency had largely been focused on enforcement actions which are important, but ideally you catch the problem earlier in examination and can fix it there. So now in my three plus years at the department, we've hired or promoted over a thousand people, including the first examiners since 2018. So almost 200 new examiners. And we continue to do that. We're putting our foot even more on the gas for hiring. So anybody who wants to come to New York and work in DFS, you are welcome. I'd be remiss if I didn't make the recruiting. Pitch while I'm here

KLEIN: There is no more fertile field. I mean, Washington, the FDIC has frozen 200 bank examiners already, right? The DOGE bros are sending people home at the CFPB to the point where judges are saying, are you, you know, what's going on? I mean --

HARRIS: Come to New York.

KLEIN: It's a, I grew up my whole life here. I've never seen this town this bad.

HARRIS: Well, you're all welcome in New York. So we are continuing to hire. But it's made a real difference for the team. The other thing we did is we got about $60 million added to our budget over five years for a technology transformation. So when I got there, it was Excel and Access and Lotus Notes and Fi. Really, Lotus Notes. I have people on my staff who are like, what's Lotus Notes? So I'm like, okay. It's like, all right. Right, all of it, we had five payment systems to collect assessments right in the day and age where you can do payments with a line of code, why do we have five payment systems? So we got this money added to our budget so we could do a complete rip and replace of our technology. So now we're implementing and I am very pleased to say we are on budget and ahead of schedule so that five-year project has now become a three-year project because as My team will tell you patience is not one of my superpowers. And so, to put it mildly, and so we are rolling this out through bureau by bureau across the department, our CRM, so that consumers, regulated entities, and staff will be able to access the same system for our side, for the back end, the entire relationship between DFS and a regulated entity. Exams, and correspondence, and MOUs, and enforcement actions will all be in one place. Companies will be able to log into the portal. If you have turnover at a company, so our main point of contact is a chief compliance officer and that person leaves, then the company will be able to log in, change the point of contact for different things. So it's really gonna just transform the way we do our work.

But we had to do a lot of work to even prepare ourselves for this project. So we created a data governance office, right? Because you can't just take a bunch of garbage data and dump it into the new system. You have to think about. Is it accurate, is it up-to-date? You have to think about access rights and governance on our side for who can change data, who can view which data. So we had to create a whole data governance team. I've hired our first-ever CTO. We hired our first-ever chief risk officer. All these things. We elevated what we used to call our admin group, which was HR and facilities and all of that. There's now a chief operations officer. So there's an executive role for all these administrative and cross-agency functions. So having that technology in place is gonna be really helpful in terms of efficiency and effectiveness, but it also required that we map all of our processes. So we looked at exams, for instance, especially after our signature, and I said, well, it doesn't make sense, right? If you're examining an institution for the year ending 2020, you're conducting the exam in 2021 and writing the report in 2021, and maybe you're coming back to the bank with findings in 2022. for the year 2020, it's too long a feedback loop. We need to shrink that feedback loop so we can give our institutions more actionable direction. But to do that I had to understand how many people touch an exam report and how much value does each person add and how long does it take them to add that value? And of course what it turns out to happen is you've got three people in the process chain that are doing the same thing. We don't need to do that.

All right, so we really went through. And part of what the CRM tool will do, it'll also be a workflow management tool. So managers will then be able to measure how much time it's taking people to move exams along, move applications along, move dividend requests along, and see where things are getting bottlenecked, see where we need more resources. So it's really meant to make us a more efficient and effective regulator. But while this is being implemented over the next three years, and we're starting with our pharmacy benefit manager group and our drug price spike complaint system, those were our first sort of use cases, we've also, I make the team make a list, right? So we have, when I came in, we had all these backlogs of regulatory filings and we don't yet have all this technology in place. So I just want a list of things that are X number of days old or older. And then I want each of the teams to report to me on a monthly basis about this list. And every month, of course, the rule is more has to come off the aged filing list than goes on the aged filing list. It's very simple. And so I do this with each of the teams every month. And so in the last two years, that's enabled us to clear 30,000 aged regulatory filings. 30,000? 30,000 aged filings. We still have some backlog. But I meet, again, each of the teams, they have a dedicated meeting that is about the backlog. How many things went on? How many things came off? Why hasn't this number moved, right? And we go through that every month and the result so far has been 30,000 filings.

KLEIN: So, tomorrow, you mentioned Signature. And that was, a lot of people think of SVB, and they think of First Republic, but the third bank that failed, which was Abigham's, was Signature, right? And there was even a fourth bank that failed before those three, Silvergate, which was kind of crypto and may have been the canary in the coal mine about some of what was going on. But Signature failed, New York Institution,

HARRIS: That's why I have all these new gray hairs over the last two years.

KLEIN: What...Tell me about how that changed. What does that change? What lessons learned do you have from DFS? You've had two years to go through the process of failing it, to then look at what happened, what was better, what was worse. Yeah.

HARRIS: I think there were, and like the federal regulators, we published a report on this. It was important to me that the report really gave the public the story of that weekend, the data we were getting from the bank, the data we weren't getting from the bank, the actions we took. So it really is, and it ends with policy recommendations, all of which we've implemented, but more importantly for me was I wanted to provide that transparency about what happened that weekend with respect to signature. . But then there were a number of, I think, good reforms that came out of it. For us, some of which were in train before the bank failed, but then obviously got accelerated. And then other things that we hadn't thought as much about. So we have now a new escalation protocol at DFS for our institutions that get threes in their exams on any one area, exam cycle after exam cycle.

KLEIN: So you should know that. So you should know that camel rating, these ratings of people are on ordinal scale, one super awesome, five like bells alarm, fire, you know, you guys are in deep, deep, deep, right? And then there's this two, three, or four kind of middle ground. Four is problem, four is real, right? Two's could be better, but good enough, and three is like, is that right?

HARRIS: Three is, you know, you're a C student, right? But what we saw with all the banks that failed that weekend including signature is they all had persistent threes at least in critical areas like liquidity risk management, right? And so what we said is let's go back and I made the team do a several year look back of all of our institutions, which is a lot of institutions and say, who's been a C student? cycle after cycle after cycle in the same area. Because if you had a kid who was getting Cs in math, semester after semester, you would have some sort of intervention, right? You would find the kid a tutor, you would change their grade, like you would do something for this kid. I felt the same way about these institutions, so I said, we gotta look and see who's got three, cycle after cycle after cycle, and we need a process by which the examination staff will escalate that issue to executive management. And then a determination has to be made. Do we need an interim exam? Do we need an MOU? Do we need a consent order, right? But if those issues aren't bubbling up, we can't take proper action. So we changed the escalation protocol, trained the staff on that protocol. We looked at the exam process, as I mentioned, right? To see how many people had to be involved, how long was it taking, right? All of that stuff, shrunk that down quite a bit so we could provide more real-time guidance. to our banks. And then we did this operational stress testing pilot, which we just published our white paper on this, because one of the things that came out of the weekend of the signature failure, and we wrote about this, and I testified to this, is the bank could not produce accurate data in a timely way. So during the weekend of the failures, we're working with the bank to figure out how much collateral they can pledge to the Fed for emergency liquidity, and then in a 12 hour period, the bank said they had. $6 billion of collateral, and this is before a Fed discount, has been applied. And within 12 hours, that had been revised down to about half a billion.

KLEIN: So 5.55, gone.

HARRIS: Right, just because they didn't have systems, they didn't have accurate data. And I thought, first of all, you should always be able to get accurate data. If you're running a financial institution, but certainly in a crisis situation, you should be able to quickly produce accurate data that doesn't swing $5.5 billion in 12 hours. Seems sort of like table stakes. So we did this operational stress testing exercise. We selected a few of our institutions to make sure we had a diverse array. Did this pilot where we just did a tabletop. exercise similar to that weekend and say, can you produce the following data, right? And everybody's got plans that sit on the shelf, but unless you test them, you don't know that they're gonna work in a crisis situation. So we did this with a few banks, and we published this white paper about our findings, but it's our way of making sure that our institutions are accountable, that they're testing those plans, that they can produce this data. I think that was a huge takeaway for us. I was surprised, right, that the... the bank couldn't produce this data in a timely way. And so that's one of our supervisory takeaways.

KLEIN: I hope that lesson gets learned about the threes because I'm a little nervous that you know in Washington If you get a if your cumulative rating is a four Right and and we can debate how the cumulative numbers decided versus the different elements the sub part Then you're put on something called the trouble bank list and the trouble bank list Used to get published on a quarterly basis by the FDIC the total amount of assets So no, we didn't know which institutions were on But the total number of institutions that were fours or fives had all their assets put. And just recently, the new FDIC acting vice chair decided to take that data away from the public. So we won't know how many banks in the total aggregate. So if there's a banking crisis coming, and you can see this four number go up and as a crisis, it also was a way to judge the regulator. because you could be like, huh, in 2007, you didn't have any troubled banks. That's kind of funny. And by the way, no bank failed in 05 and 06. 2005 was the first year in American history where not a single bank failed. 2006 was the second, and the regulators came before Congress where I was working and told us what a great job they were doing. The banking system had never been safer because look, no one's failing, right? I mean, could Have you ever imagined someone being more dead wrong? Right, and now this information is gonna be hidden from us. Being an academic, I've been able to be a little more provocative and said, why don't you just make all this camel stuff public? I go to New York, there's a little letter, right, when I go into a place about the food inspection. Right, people go, oh, you can't let the public know. Like, you guys wanna take away the public rating? We've talked a lot about banks. We could talk about banks the whole time. I gotta stop, because you regulate insurance. Yes. and insurance is incredibly important. In fact, when you look at, you talked about inflation and you made the point, why is the price of cashing a check related to the price of eggs, right? The price of insurance has been radically increasing. If you drill down into what's causing inflation, everybody here has their car insurance, some people have homeowners, or if you don't have renter's insurance, please consider insuring as a renter. You guys regulate insurance. Talk to me about what you see going on.

HARRIS: Yeah, yeah. so we regulate health insurance, property and casualty insurance, so homeowners, auto, and life insurance. And now, as of two years ago, we have the authority to oversee pharmacy benefit managers, Which is a whole other

KLEIN: You mentioned that twice. Mark Cuban tweets about that all the time. I still don't fully understand.

HARRIS: Yeah, well, we can do a whole session just on PBMs. So we really do get to see it all. And as you said, the price of insurance has just been going up and up and up. And I think this is especially true in the PNC space, largely because of climate change. More natural disasters, more catastrophes mean more risk, more loss.

KLEIN: So you're telling me the state of New York still believes in climate change?

HARRIS: Yes, indeed we do. Indeed we do.

KLEIN: Please lead us further.

HARRIS: We created a climate division at DFS.

KLEIN: because climate doesn't impact insurance because it impacts the probability of disasters.

HARRIS: I mean, as we have seen. So if you think, for instance, the US usually has about $150 billion in catastrophe losses. So not your run-of-the-mill homeowners losses, but catastrophe losses. The LA fires are estimated to be about $50 billion in that one event in January. So what is going to happen in the last year? Hurricane season hasn't started yet. But you also have, right, replacement parts are more expensive, labor is more expensive, right, the replacement parts thing is really interesting as you think about auto insurance.

KLEIN: Don't talk to me, I had my beloved Chevy Bolt get totaled and I didn't think the accident was gonna be that bad. But then, you know, it totals, in Maryland, I think it's about 75% of the cost of the car and like, they're like, there were parts. It didn't even mess up the battery. But they said the replacement parts are so difficult and I'm assuming tariffs aren't gonna make that cheaper.

HARRIS: Well, I think that's exactly right and they're the NAIC and AM best have done some reports on this

KLEIN: National Association of Insurance Commissioners.

HARRIS: insurance commissioners getting me out of my acronym soup and but it's so interesting if you think about I drive a very old car I plan on driving until we hit 300,000 miles or more like just until the wheels fall off because I love it but if you think about how much cars have changed right if you ding a bumper on a 15-year-old car like mine you're replacing a piece of metal if you ding a bumper on a brand new car you are replacing the piece of metal and hundreds of sensors and wires and electronics and all the beeping, right? So it's gotten much more expensive. There are lots of changes in driving habits post pandemic, which I thought was really interesting. I had insurers coming in there saying, well, people are worse drivers now than they were before the pandemic. And I was like, well, that can't possibly be true except for I drive in Manhattan. And I'm like, maybe it's a little bit true except for hard to know, right? It's always been challenging to drive in Manhattan.

KLEIN: No, we have Virginians just messing up Maryland roads all the time.

HARRIS: But it turns out, right, when you don't have sort of everybody going one direction at 8 a.m. and everybody coming back the other direction at 5 p.m., but instead things are more spread out, people drive faster because there's not as much traffic all going in the same direction. So people drive faster. So accidents are worse. So you have more of them, you have them more frequently, and the replacement parts are more expensive. So you actually do have more risk. Right, so the challenging part for an insurance regulator is you want insurance to be affordable for consumers, but one of the biggest consumer protections that you can provide to consumers is making sure there is money there to pay claims when they come due. And so we are always trying to strike this balance of how do we give the insurers the rate they need so they will be in New York, right? And so we don't have a situation like they have in California or Florida where insurers are leaving the market because they can't afford to be there. All right. We want. profitable companies, because that's what drives competition in the space, but it also needs to be affordable for consumers. And so we have to strike that down.

KLEIN: So insurance is rate regulated, which is very different. I mean, insurance and banking are both financial products, but like every theory behind the two is so radically different, right? In the bank, you give them your money, and your job is to make sure the money's in the bank when the consumer's need it. In insurance, they promise you that if there's an accident, you want to make sure there's money in the insurer to pay the... to pay the climate.

HARRIS: But that goes, I mean, not just the rate setting, but our reserving requirements, right? We have to make sure that they're investing the money conservatively, that they are reserving appropriately, especially as the world is changing with replacement costs and catastrophe. And so it's very complicated.

KLEIN: Yeah, and even. and even what you're allowed to price on, right? Two facts, right? Number one, women are safer drivers than men. Women are also safer borrowers, holding everything else equal, men default more than women. If I were a bank in your state and I tried to charge us different prices based on our gender, right? You would be, but if I'm an insurer and I charge us different prices based on our gender. How do you manage that I mean in one place gender pricing is legal and the other.

HARRIS: It's not yeah no it's you know it is really has to do with the statistically significant right difference in risk and so when you read the insurance law in New York and I think most other states when we set rates they have to be adequate not excessive and not unfairly discriminatory right and I get lots of incoming from the state legislator like well what is unfairly discriminatory mean like what is a discrimination, you say, well, insurance. is a discrimination business, right, in the truest sense of the word, but what we don't want is unfair discrimination, meaning discrimination that's not related to the risk. And so that is a data determination. It's a policy consideration, right, by the legislature because some things are allowed in law and others aren't. So it is complicated.

KLEIN: Yeah, so I could go on and on and on on this, but everybody in this room has been sitting here patiently. We took some questions from online. Let's see who's got some good questions here for the superintendent. Let's see woman in the third row.

AUDIENCE QUESTION: Hi, my name is Pauline Ballem of the U.S. Department of Treasury, former bank equity research analyst. I had a buy on signature and a strong buy on Silicon Valley Bank, so, oops, but that was about three years ago,

KLEIN: Silicon Valley Bank stock price was $275 on Monday and zero on Friday, two years ago this week. So anybody who thinks the stock market is the be-all end-all of true economic value and merit, and I say this as I watch a lot of my liberal friends and colleagues trash the president based on the performance of the Dow Jones, I say, well, wait a second. Was the starting point right? Because Silicon Valley Bank was not worth $275 a share on Monday, despite your view. So what's your question? Ask it in terms of a question.

AUDIENCE QUESTION: So, I wanted to see your views on private credit, because it seems like the emergence of private credit since the financial credit crisis changed the velocity of money.

KLEIN: Mm-hmm.

AUDIENCE QUESTION: Now, borrowers have more options, and frankly, private credit sometimes is more flexible because the banks and credit unions have a certain credit box that they adhere to. But then they're not regulated. And then you mentioned insurance companies. Now they invest in those private credit companies, provide capital. So there is a lot of exposure that's not being tracked by regulators. Do you think at some point you will be regulating those entities? But then this is where one of the advantages is coming from.

HARRIS: Yeah, well, I wouldn't say they're not tracked. So there are private credit entities that don't fall in a certain regulatory purview. But as we know, banks provide a lot of those funds to the private credit entities. And then when you think about private equity, for instance, and insurance, that does get regulated. Because for the insurance companies that we oversee, Thanks for watching! We have purview over their asset management agreements. We can look at the transactions they do. We can look at and control the investments that they make. So this is one of the other themes, I think, in insurance is you see more and more private equity companies interested in the insurance industry, both for the asset management and the commercial agreements, but also for ownership, right? We have purview to say, okay, if you want to be the asset manager for this life insurance company, if you want to be an equity owner and the asset manager for this insurance company. We have the say over that commercial agreement. We have the say over how you invest those premium dollars. And we make them invest them very conservatively. And it's been an interesting socialization challenge to say, we don't think of BBB stuff as appropriate for insurance investments. and, uh... have that discussion with some of those asset managers. So I think while the entities fall out of, say, fall outside of a DFS regulatory perimeter, it's not true that this gets entirely, that this space is entirely untracked because insofar as banks are providing funds to private credit providers, right, we get to see that as a prudential regulator. As an insurance regulator, right, we get to see the asset management of insurance companies, including when those assets are managed by. private equity firms.

KLEIN: In the back

AUDIENCE QUESTION: Thank you. Lydia Bayoud with Bloomberg News. Erin mentioned meme coins in passing, and the SEC came out recently with a staff guidance saying, we don't think these are securities, we don't regulate them, and yet we continue to see rug pull after rug pull in these assets. What's the DFS view of these assets? Have you taken any enforcement actions against them?

HARRIS: Yeah, so we actually just recently did two things. We put out a consumer sort of notice about meme coins to warn consumers and say, look, these things are really volatile. Make sure you do your due diligence. Right, there are lots of rug pull schemes and other things. So we put that out for consumers. We also did regulatory guidance for our regulated crypto companies to say we have listing requirements. If you are regulated by DFS, there are listing requirements that exist both in your supervisory agreements and more generally, and you need to be making sure you are abiding by those requirements as as relates to meme coins. So it's not for us to say well this coin but not that coin this coin but not that coin but to say there are transparent rules on the books and we expect you all to abide by those with respect to meme coins and if you don't we will either deal with it in a supervisory or enforcement context as appropriate.

AUDIENCE QUESTION: I have a question about consumer finance protection, absolutely consumer education and I ask this because I have two parents who are in their 70s, they live in the UK and my mother had no idea that her mortgage adjusted. So when the rate went up she was, she said where did this come from, that sort of thing. So I've wondered, you talked about data and the effectiveness of regulation and closures, etc. Have you, have you or your DFS looked at how effective... or what's the most effective means of educating consumers as to financial products? Because is it like websites? What penetrating makes it through so they understand what they're buying, what the rules are, what the rate is, when it goes up, down, the fees, et cetera.

HARRIS: So one thing I'm incredibly proud of is I'm the first non-prosecutor to sit in my seat, which I'm always very proud of, but we brought in my time 111 enforcement actions, the first actions against cryptocurrency companies, the majority of the actions for cybersecurity violations. But even more important than the enforcement actions and the penalties is we've gotten about $650 million back to New Yorkers in the form of restitution. during my tenure, including $228 million in 2024. So every year we set new records for consumer restitution, and that's from enforcement actions, that's from complaints. It doesn't include the over $2 billion in virtual currency that we got back to consumers from the Gemini case. So I think that's one thing, as we think about consumer protection. And it was important to me because I wanted New Yorkers and Ohioans, apparently. to understand what their government was doing for them. Penalties are great and necessary, but when you can get money back to people's pockets, that is...

KLEIN: Finding current shareholders for past management activity that ripped off people doesn't help the people that got ripped off.

HARRIS: But getting $650 million back to New Yorkers certainly does. But on education, we stood up the first statewide office on financial inclusion and empowerment that does a lot of stakeholder outreach. We'll go and meet with community groups. We participate now much more in community activities. So that whole office is dedicated to that. We spend time every year. This is one of my favorite things that we do is we go to the state fair. every year and I make all of the executives go to the state fair. I grew up going to state fairs. I love the state fair. Like I will go to the 4H barn and be there all day if my team wasn't dragging me back to be like, can you do your job at our booth? I'm like, but I wanna play with the cows. So we go to the state fair and every year we do a different theme. So one year was crypto, one year we did mortgage, right, so that, and I want the executives there so they can hear directly. from New Yorkers that they're not in an ivory tower in their office, like I want them talking to real people.

KLEIN: There's no substitution. I remember when we were on the staff of the Senate Banking Committee, we took a field trip to a city financial office in Baltimore and learned about subprime mortgage practices. When you talk to a subprime mortgage originator on the ground in an office, it was a world different experience from every briefing I'd had on the subject in the Dirksen Senate office building.

HARRIS: Well, and so the other things we've done, we have a number of task forces. When I got to DFS, they didn't appropriately represent New York. So our consumer protection task force, for instance, didn't have enough people of color, didn't have representation for immigrants' rights, didn't have representation for workers' rights, right? We've changed all of that. And then I also created an equity and opportunity council which was specifically geared at it's an entirely diverse council. And they're all people who have graduated, I would say, grew up low income or underprivileged, and now have become very successful, financially well-off people. And it was important to me that the council be constituted that way, because I thought, who better to think about financial education or regulation than the people who have themselves overcome and beat the odds and advise us. on how we can educate people about these important things. And so we zeroed in on a couple of topics with that council, including rent payments and how those are made and protections that might need to be done there. Life insurance was another big thing, right? I think a lot of people view that as sort of a luxury, whereas you have to have auto, you really have to have health, right? We think about home, we don't think about life insurance.

KLEIN: It's interesting that life insurance is more common as an investment and protection mechanism as you go down the income stream relative to stocks. Like as you look at that, that's always struck me as something that people keep all invest in stocks, invest in stocks, invest in stocks. And we actually look at the investment patterns of people, insurance has a much greater penetration.

HARRIS: Right.

KLEIN: Right.

HARRIS: And so we wanted to educate people. So we're actually about to roll out a campaign to educate people on some of these things.

KLEIN: So, we're past time and I wanna leave you with an opportunity because you've come to Brookings before. You keep racking up these accomplishments. Sometimes I don't think we take enough of a moment to take a pause and say something. What have been the highlights so far as you get towards the end of your tenure and what's in store?

HARRIS: Yeah, we've done a lot of work on AI, and I think there's more to come. So we did a lot of work on insurance, underwriting and pricing in AI. We did a piece of guidance on cyber security in AI, and it was important for us to break that down into manageable pieces. So in terms of what's to come, I think more on AI. Hopefully the Buy Now will get the authority to regulate Buy Now, Pay Later, and earned wage access, so that will be to come. For me, I think two things in terms of sources of pride. I mean, when I think about setting record numbers every year for restitution. I am over the moon about that. And you think about $650 million back to New Yorkers, like that, I just love that. It makes me emotional to think about that. So I'm so grateful for the team that handles our complaints and our enforcement. But then when I think about just building a sustainable. regulatory institution that's future-looking, that's efficient, that's effective, that's engaged with all of its stakeholders. I'm really trying to build something along with my fantastic team that will long live past my tenure and hopefully be an example for regulators across the world of how you can protect consumers and markets and be good for business at the same time.

KLEIN: Well, I came into this day with a down moment about where my beloved city of Washington is, and I'm leaving and excited and energized about New York.

HARRIS: New York.

KLEIN: And the great opportunities that arise for, I think you'll be seeing a lot of people come from Washington. in.

HARRIS: We welcome you, we're headquartered in Manhattan, we've got Albany offices, Buffalo out, you can come and be in any part of New York you like.

KLEIN: All right, join me in thanking Dr. Harris.