Forbes

McWilliams Deserves Praise For Her FSOC Abstention And Call For Caution

Norbert Michel

November 22, 2021

Todd Phillips, director of financial regulation at the Center for American Progress, is calling for the firing of (Trump appointee) Jelena McWilliams, the Chairman of the Federal Deposit Insurance Corporation (FDIC). If she won't leave, Phillips wants a coup.

He doesn't think that she has been derelict in her duties, "too easy" on "the big banks," or the orchestrator of looser rules. It's nothing like that.

McWilliams, who emigrated to the United States at the age of 18 from Serbia, has committed a sin much worse in the eyes of the progressives.

Phillips wants McWilliams out because she abstained from voting on the Financial Stability Oversight Council's (FSOC's) report on climate-related financial risk. That report lays the groundwork for the Biden administration's efforts to address climate change through financial regulation.

Only a hardcore cynic would suggest that Phillips, a white male, has escaped the wrath of the woke mob – which would normally accuse him of being a sexist and a racist after calling for a high-ranking female official to lose her job – because McWilliams is on the wrong side of the climate change debate. That explanation couldn't possibly have any merit at all.

Regardless, the press appears to view Phillips' disagreement as a legitimate policy debate, a very different outcome than for those who disagree with the policies promoted by President Biden's recent Comptroller nominee.

So, why, exactly, has McWilliams' abstention resulted in Phillips calling for her removal?

According to Phillips, "McWilliams's abstention signifies that she does not intend for the FDIC to engage in these necessary efforts [implementing financial regulations that mitigate climate change] and that she may even use the FDIC to hinder the efforts of other agencies."

Given what McWilliams said about her decision to abstain from voting for the FSOC report, Phillips seems to be taking quite a leap of faith. When she announced her decision at the FSOC meeting, McWilliams stated:

I believe that FSOC has not had an adequate opportunity to conduct sufficient analysis, fully consider broader macro consequences, and thoroughly evaluate the impact of its recommendations. As a result, I am concerned the report is premised on a number of conclusions that warrant more thorough examination.

While I will abstain from voting on the report, I will continue to work with the FSOC and our fellow regulators on these crucial issues. I would like to take one more opportunity to thank FSOC staff for their willingness to consider feedback and comments offered by FDIC staff.

Aside from her explicit willingness to continue working with regulators on this issue, the FSOC report itself states that "[t]he Council first discussed climate-related financial risks at its March 2021 meeting."

Perhaps Phillips doesn't take McWilliams at her word, but she objectively has a very good point: Six months is a short time to evaluate all the issues contemplated in the FSOC report. It has more than 30 specific recommendations, many of which will implement "structural changes" that "are likely to broadly affect households, communities, and businesses."

McWilliams is also correct to point out that the FDIC has long required banks "to consider and appropriately address potential climate risks that could arise in their operating environment as a meaningful safety and soundness concern," including physical risks "associated with extreme weather events, such as hurricanes, floods, storms, tornadoes, droughts, and fires."

Nevertheless, Phillips has had enough of McWilliams and her prudence. He wants her out. And if she won't go, he wants the FDIC board to gut her staff, leaving her isolated and with little choice but to quit. (By the way, the Comptroller and the CFPB director both sit on the FDIC board.) According to Phillips:

Fortunately, the other members of the FDIC's board of directors have the inherent authority to take control of the agency; they need only to demonstrate the will to do so. The other directors have inherent authority under the Board's bylaws to direct staff to begin undertaking the activities recommended by the FSOC report and more, including issuing climate supervisory guidance for banks, creating climate scenario analyses and scouring existing regulations for rules that should be updated to address climate risks. The directors could even remove the FDIC's chief of staff if they did not trust him to implement these efforts.

There isn't anything to implement yet, but that doesn't seem to matter to Phillips. Objectively, there is no reason to think that McWilliams will do anything but her absolute best to uphold the law and execute the duties of her office. She deserves praise for doing exactly that from the day she was appointed.

As for the administration's attempt to join efforts to "reimagine capitalism" and "reset our world" through financial market regulation, advocates such as Phillips should engage on the policies themselves. They should also respect the rule of law rather than promote regulating through informal guidance that relies on the ominous shadow of federal regulators to influence bank managers' behavior.

There is much to debate. For instance, there is little evidence that "any part of the overall increase in global economic losses documented on climate time scales can be attributed to human-caused changes in climate." Moreover, as the latest Intergovernmental Panel on Climate Change report demonstrates:

Floods are not more frequent. Hurricanes and tropical cyclones are not more frequent. Meteorological and hydrological droughts are not more frequent. Tornadoes are not more frequent. Hail is not more frequent. Lightning is not more frequent. Strong winds are not more frequent.

Besides, to the extent that exposures to climate change risks are material, federal law already requires public companies to disclose them. So, if the models are so accurate and the science is so clear, why wouldn't federal regulators just take their chance in court?

Perhaps it is because they know most judges will recognize that things are *not* so clear. One major problem is that both climate and economic models heavily depend on subjective assumptions, and even climate scientists have leveled devastating critiques against the types of climate scenario analysis that the administration wants to force financial firms to use.

These ideas are all legitimate topics for public debate, so it is a good thing that the federal government was created to prevent just one or two people from forcing major policy changes on everyone else.

McWilliams deserves credit for doing an excellent job as FDIC Chair, and for having the courage to call for a careful evaluation of what some of her more zealous federal colleagues are trying to achieve. Surely Phillips and his compatriots are willing to engage with her.

Norbert Michel is Vice President and Director of Cato Institute's Center for Monetary and Financial Alternatives.