Ep. 120 The Failed Politics of Consumer Financial Protection

Judith Kelley [00:00:00] Some listeners may remember that Elizabeth Warren likes to start some of her speeches talking about toasters and fire extinguishers, and the reason she likes to do that is because she once had a toaster burst into, you know, burst her the contents into flames that ended up burning parts of her kitchen down. And and so after that, she really got interested in consumer protection laws and made this sort of a statement that that's caught on. She said it's impossible to buy a toaster that has a one in five chance of bursting into flames and burning down your house. But it's possible to refinance an existing home with a mortgage that has the same one in five chance of putting the family out on the street. So a question obviously is why is that? Why will regulators yank that toaster off the market in no time and yet let such volatile and and and dangerous financial products remain on the open marketplace for consumers to fall prey to? And that really is a perfect opening to the conversation we're going to have today discussing a new book called "Democracy Declined: The Failed Politics of Consumer Financial Protection". That book was written by Mallory SoRelle, who is with me today. And Mallory is a faculty member at the Sanford School of Public Policy at Duke University. And she argues that we have a big problem in our hands when it comes to consumer financial protection. The way that our system is set up is nuts. It places the onus on individuals to sift through fine print to make sure that their lender isn't taking advantage of them. And we all know that we don't sift through fine print. So we have a consumer financial protection agency that was created after the last financial crisis. But why do policymakers consistently rely on these kinds of disclosure requirements as the main form of protecting consumers when we know that isn't enough? And why don't consumers who have so much to lose from this not demand better policy, why do they not mobilize successfully against the system? And why are bureaucrats not welcoming consumer input when their job really is to protect the consumers? So I am happy to welcome today to Policy 360 Mallory SoRelle. Welcome, Mallory.

Mallory SoRelle [00:02:44] Thanks so much for having me.

Judith Kelley [00:02:47] It's my pleasure, and welcome again to our listeners too, to Policy 360. I'm Judith Kelly. I'm your host. And we're going to talk today about consumer financial protection. And Mallory, one thing that the Consumer Financial Protection Agency is tasked with handling is predatory lending. So what are we talking about when it comes to predatory lending? And if you want to just back up a little bit and tell us what the Consumer Financial Protection Agency is, that would be super helpful too.

Mallory SoRelle [00:03:17] Sure. Well, I'll actually I'll answer those in the in the order you gave them to me. So predatory lending is one of those sort of funny things we use this term all the time, but it does not in the US have a standard legal definition. Right. There's not sort of a clear idea of what predatory lending is, but in general, it's used to refer to loans and other types of financial products that charge excessively high interest rates or particularly high fees to use them.

Judith Kelley [00:03:52] Right.

Mallory SoRelle [00:03:53] And, you know, such that it becomes harder and harder to pay off. Right. Any debt that you incur from using these products. So that's kind of the big picture definition. We often hear predatory lending talked about in the context of maybe subprime mortgages. Right. Mortgages that come with especially high interest rates or variable fees or maybe payday loans. But you can have predatory lending in any type of financial product.

Judith Kelley [00:04:20] What is the threshold we tend to think about in terms of interest rate that that that gets crossed and then we think this is starting to become predatory?

Mallory SoRelle [00:04:28] That's a great question. Again, there's I think not a clear threshold, but I will I will say that when people try to measure these things, when they start to look at who suffers from higher cost loans, the threshold you'll often see people talk about is a 20 percent interest rate. So, for example, so, yeah, it's pretty high. The average, I think credit card interest rate is closer to 13 or 14 percent.

Judith Kelley [00:04:51] Right.

Mallory SoRelle [00:04:51] So when we think about 20, that's pretty high.

Judith Kelley [00:04:54] And even 13, 14 percent can bring a family down, under and under the right circumstances. Just depends on whether they actually have the the capacity to support the types of of loans they're taking out.

Mallory SoRelle [00:05:07] Absolutely.

Judith Kelley [00:05:09] So how bad is this? How widespread is this problem?

Mallory SoRelle [00:05:12] So it's a pretty widespread problem. One of the things that's interesting about predatory lending is, you know, people incur higher interest rates depending on their credit score. And as you can imagine, there are some groups that tend to have higher credit scores. Typically people who make more money, those, those people are often more likely to be white or male. But so younger folks, women, particularly single women, people of color, are much more likely to incur these higher sort of more predatory rates. But they're pretty pervasive.

Judith Kelley [00:05:53] So are you saying that if two people want to make the same loan for a manageable amount of money, that they may face very different rates for even if even if they are both paying them back in a timely manner?

Mallory SoRelle [00:06:14] Exactly. Exactly.

Judith Kelley [00:06:18] That's disturbing, but I mean, it makes sense in some cases because, of course, a bank or a lender is assessing the risk of a repayment, but it sounds like there's no separation whatsoever between between risk and and the rate itself in the sense of just I guess, is it based on people's that's what the credit rating is. It's based on people's track record, so do they have to have do they have to have fallen behind on previous payments or do you get a bad credit rating just by being in a certain category to begin with?

Mallory SoRelle [00:06:53] So that's a great question. I think credit scores and the US are sort of like a black box. Most people don't really have a great sense of what goes into them. And the answer to that is that a lot of things go into them, some of which seem very odd. Right. So, for example, if you know when when someone checks your credit, so if you, for example, apply to rent an apartment...

Judith Kelley [00:07:16] Right.

Mallory SoRelle [00:07:17] ...or to buy a new car, someone is going to check your credit. Well, if too many people check your credit, that can ding your credit score, you know, even if that has nothing to do with your ability to repay a loan.

Judith Kelley [00:07:28] Right. Right.

Mallory SoRelle [00:07:29] So there's there's a lot that goes into it. And as with with many sort of financial practices in the US, a lot of the ways that credit scores are created that seem potentially neutral can often be based in sort of racialized or gendered terms that negatively affect those groups in ways that aren't really a good reflection of their ability to pay back loans.

Judith Kelley [00:07:55] Interesting. So, OK, so we didn't get to the first question or second question, I, was which was about the Consumer Financial Protection Agency. So, just explain what it is. We'll get back to it later. But since that's what we're talking about, it's just helpful for everybody to know what this agency does. This agency does not deal with toasters unless you put it on a credit card, I guess.

Mallory SoRelle [00:08:15] Exactly. So the Consumer Financial Protection Bureau was actually created in the aftermath of the 2008 financial crisis when we saw all of these folks with predatory debt. Right. Sort of help generate this massive economic crisis. And members of Congress said, OK, maybe it's time to create an agency that's designed specifically to protect consumers in their financial transactions. And the CFPB is what came out of that. So it was part of the big Dodd-Frank Wall Street reform package built this new agency that was designed specifically to look out for consumers finances in an effort to maybe help prevent some of those predatory lending products from hitting the market and then also to make sure that they were investigating and essentially punishing companies that were engaging in practices they're not supposed to be.

Judith Kelley [00:09:14] But it but it goes back further than that, though, right? Because really, we need to look back to the to the New Deal. You argue after the Great Depression when when we were trying to jumpstart the economy. So put that bring that into the story.

Mallory SoRelle [00:09:31] Sure thing. So, you know, I think it's probably strange for most Americans today to think about a time when we didn't have access to things like credit cards or mortgages or loans of various types. But if we think back to the early 20th century, most people in the US could not get access to credit, particularly small amounts of credit, unless it was to buy something specific. Right. Like if you were going to buy a refrigerator or a car, you could pay that off in installments. But there was nothing akin to a credit card.

Judith Kelley [00:10:05] Right. So you would make a deal with the store itself, essentially.

Mallory SoRelle [00:10:08] Right, and even those forms were relatively new at the time. So when the Great Depression hit and the Roosevelt administration was trying to figure out how to dig us out of it...

Judith Kelley [00:10:22] That they passed a big trillion dollar stimulus bill like today.

Mallory SoRelle [00:10:25] They did sort of functionally, they did it in pieces. And so obviously, you know, most Americans are familiar with some of the bigger programs that came out of that, like Social Security. But one of the things that the Roosevelt administration decided was, you know, we think our economy is built on consumption, on people being able to go out and spend money to buy goods. That's what's going to create jobs. That's what's going to help us grow. And that requires people to be able to spend money right and and so the the Roosevelt administration said, you know, we can help people spend money in different ways. We could give them money. Right, through public welfare programs. We could pass a minimum wage law that helps make sure people just have enough income. Or maybe we could convince banks to just lend out credit so that people can use that to buy things. To that point, banks had been really uninterested in doing this. They didn't think credit was going to be a good deal. They didn't think it would be profitable. They didn't trust people to pay back loans.

Judith Kelley [00:11:32] Right.

Mallory SoRelle [00:11:32] They really weren't interested. But the Roosevelt administration decided that was kind of the most politically feasible way. It sounded better to get private banks to lend out credit than to create more government welfare programs and so they put together some policies that basically incentivized banks to make loans. The government said if you'll make some loans, initially, it was to help people renovate their homes because they really wanted to get construction workers sort of back on the job.

Judith Kelley [00:12:02] Right.

Mallory SoRelle [00:12:03] So they said, if you'll make some small loans to people who want to get a new roof or something like that, we will guarantee you, we the government, will guarantee you against a certain amount of loss that you might incur if people don't pay back those loans. So you're guaranteed to make your money back and so the banks said, OK, this seems reasonable. And they started making these loans and they found, oh, wow, people really do pay these back. We could actually make a lot of profit on this.

Judith Kelley [00:12:32] Right.

Mallory SoRelle [00:12:33] And that was really the beginning. And it just kind of ramped up from there the use of of credit as this main sort of form of buying things in the US.

Judith Kelley [00:12:43] So so why was there not then any kind of attempt to to rein in the power of the banks and the lenders? Was that because the administration and subsequent administrations just saw this as healthy for the economy?

Mallory SoRelle [00:12:59] So unusually so, yes, I think the short answer is yes. Initially what happened was banks started to lend to more and more types of people, and the government, as a result, had an interest in getting banks to extend credit to more and more types of people because that's how the economy would grow. Right. We've they've now put the system in place where people need access to credit to go out and spend money and we need people to go out and spend money to make sure the economy is chugging along. And so on the one hand, you want people to make you want people to feel confident in using credit. Right. Because they won't use it if they think it's going to go badly for them.

Judith Kelley [00:13:44] Right.

Mallory SoRelle [00:13:45] But you also want to make sure that banks are lending to more and more people you want access to expand. And the argument went that if you started putting restrictions on the types of loans that that banks could make or the charges they could levy, that banks wouldn't extend loans to, as you mentioned earlier, those sort of, quote unquote, riskier borrowers. Right. And so policymakers didn't want banks to stop lending. And in many cases, they wanted them to start lending to more people than they already were lending to. So they were really sort of hamstrung when it came to finding a way to protect consumers while making sure the banks kept lending money.

Judith Kelley [00:14:30] But but if government was essentially backstopping these loans, why was that not enough to get banks to extend credit to more and more people?

Mallory SoRelle [00:14:39] That's a great question. So the government backstopping of loans early on was for a pretty specific program right around these house renovations. And so banks essentially kind of took those loans and ran with it afterwards. So by this point, government isn't necessarily necessarily backstopping, for example, a credit card. So so the the bulk of the financial risk is at this point falling on financial institutions.

Judith Kelley [00:15:08] So what does that mean for for the consumer today, then?

Mallory SoRelle [00:15:12] Well, what it means is we don't have very good protections. Right. It means that what policymakers have decided to do is to say if we just give people enough information about their credit card or their bank account or their mortgage, we'll just assume that consumers can use that information to make smart shopping decisions. And it doesn't matter how predatory the loan terms are, as long as we tell you up front, it's up to you to make a good choice about whether you should get that predatory loan. So, as you said, what that means is we get these pages and pages of fine print that nobody really knows how to sort of interpret. And and that's the only protection we have.

Judith Kelley [00:15:58] Yeah, I mean, so you get all these pages of fine print and one of the reasons you don't read them all is because there are a lot of pages and there are small. And so you just scroll to the bottom, you go, yes, accept or whatever. But another reason, I assume is also is that people don't necessarily have a lot of alternatives. Like it's not like they have a menu of their choosing between loan A or loan B or credit option A credit option B, it's too overwhelming. Or do they have options?

Mallory SoRelle [00:16:28] That's a great question. So if you are affluent, right, if you're a wealthier customer, you might have options. You might be able to say, well, this one credit card offers airline miles and the lower interest rate, but I have to pay an annual fee. And the other credit card doesn't have a fee, you know, but maybe it comes with sort of smaller rewards. Right. But for most Americans, that's not going to be the case. They're going to have, you know, maybe a handful of credit cards that look functionally the same, that are all charging a higher interest rate, that are all going to have pretty stiff penalties if you pay your bill late. And so there's not a lot of choice for a lot of borrowers in the market.

Judith Kelley [00:17:16] Right. So I want to talk a little bit about student loan debt, too, because, well, first of all, we're both professors and this is something that's very real for the economy. But also, you know what you said earlier about the Roosevelt administration essentially choosing to use lenders as the as as as the agents that would infuse money into society. In some ways, government, it seems to me, has used student loan debt as a mechanism to finance research and development and higher education. So as opposed to in in Europe, for example, where the state essentially underwrites the cost of large famous universities and students are able to attend for low or no cost. Here, the the policy essentially was we will make lots of loans available to students that will allow universities to charge a lot to fuel their R&D and their research enterprise and the students will pay. Does that add up?

Mallory SoRelle [00:18:39] Yeah, I think that's right and you know, I think when we think about student loans, right, there are some student loans that are federal loans. Right. That come from the government that are government money. But there's also this whole separate side of private student loans that are loans made by sort of normal financial institutions that typically come with even higher interest rates. And I think that's exactly right. Instead of, for example, you know, funding funding public universities at higher levels. Right. We rely on sort of tuition increases that are offset by these loans that students eventually have to pay back.

Judith Kelley [00:19:18] Right, yeah. How how big of a problem when when we think about the different types of debt that's held out there by consumers. How is this distributed between student loan debt, mortgage debt and other types of debt?

Mallory SoRelle [00:19:34] Yeah, that's a great question. So in terms of volume, mortgage loan debt obviously is quite substantial because just the size of a mortgage loan is going to be typically higher than the size of other loans that you get. Student loans are, I think, the fastest growing type of debt, and many people have sort of speculated that student loan debt will be sort of the next sort of mortgage loan type crisis. But credit card debt has also expanded dramatically in the last decade or so. Really, I guess, last two decades. But just I guess to put to put it in perspective, if we think about the recent pandemic, some of the you know, the CARES Act that Congress passed to try and offset some of the economic ravages of the pandemic, put a moratorium on some types of student loan and mortgage debt. That affected about sixty three-ish percent of the population. So that means about 63 percent of the population has either student loan debt or mortgage loan debt. Most of the rest of the population has other types of debt, like credit card debt or car loan debt, payday loan debt.

Judith Kelley [00:20:54] So so let's get back to the the Consumer Financial Protection Agency. As you mentioned earlier, along comes the twenty eight, you know, 2008 financial crisis and Obama and his administration has got to do something about it similarly to the way Roosevelt had to respond, so so he takes this approach to consumer protection. It's to create this agency. What powers did it have? What has it, has it been effective? What did it what did it do under Obama?

Mallory SoRelle [00:21:31] Yeah. So initially the the CFPB was quite powerful. Its funding was largely independent from Congress, which typically means that the agency has a little more leeway to do what they want to do. It was run by a single director, which meant that you only had one person sort of guiding the direction of the agency instead of having to get, for example, a board of five people to all agree on what to do and the thing that was really remarkable about it is that it was the first time that a federal government agency was dedicated exclusively to protecting consumers finances. Most of the agencies that dealt with financial protection before had the sort of odd split mission where they were initially created to essentially look out for the interests of banks to make sure that banks were profitable. And then once these consumer financial protection laws got passed, Congress sort of handed them off to these agencies and said, OK, now your job is to protect banks, but like also maybe protect consumers and these agencies said I guess we can do that, even though that's not really what we're designed to do. So the CFPB was different in that consumers were priority one. And so initially, that meant the agency enacted quite a few rules that were much stronger consumer financial protections, they were much more aggressive in enforcing those rules. So they actually got a lot of money back from companies that were violating those rules. And the other thing they did that was really interesting is they collect consumer complaint data, which is not they're not the only agency to do that. So the Federal Trade Commission collects consumer complaints across all sorts of different products that people have problems with. But the the Federal Trade Commission data is is private. The CFPB made their database public. So anyone who wants could get on their website right now and look up, for example, all of the financial complaints that, you know, Bank of America or Chase or any other bank or lender has on that data set. And that was pretty revolutionary.

Judith Kelley [00:23:51] So transparency was brought to the table.

Mallory SoRelle [00:23:53] Exactly.

Judith Kelley [00:23:55] But what about rules and actual protections?

Mallory SoRelle [00:23:59] Right. So the CFPB enacted a number of new rules initially that sort of made some more stringent protections in things like mortgage financing or credit cards. One of the big issues that they did was to try and extend some federal regulations on payday lenders, which up until that point hadn't really come under regulation by anyone at the federal level. Payday lenders had mostly been under the purview of state agencies. So that was a big effort to sort of expand consumer protections into this sort of new type of financing for the federal government.

Judith Kelley [00:24:42] So you, nevertheless, your book sort of makes clear that at the end of the day, it seems to be about disclosure, is this is this something that that come up then and to become more dominant under the under the Trump administration? Or did Obama just never really, under his time did they never really get a working bureaucracy in place that was robust enough or what happened?

Mallory SoRelle [00:25:10] Yeah, so I mean, I think the problem is that the underlying economic model in the US hasn't changed. Right. So the system that was created back in the nineteen thirties where we build an economy that relies on mass consumption and we fueled that with access to credit instead of other types of resources, that's still in place. And, you know, until that changes, it's going to be hard for policymakers to adopt anything other than information disclosures for fear that they will shrink access to credit. So the CFPB still focuses, I would say, primarily on information disclosure, but under under a pro consumer leadership, which has not always been the case, they they are, I think, more amenable to trying to enact regulations that might go beyond those information disclosures, but that that still remains the primary type of of policy to protect consumer finances.

Judith Kelley [00:26:16] So other than like going and looking up information to find out whether Bank X, Y, Z has a lot of complaints, what other ways can a consumer actually interact with this agency, like if I get an overdraft, a fee slapped on me because I took too much out of my bank account and this fee seems to be disproportionate. Do I like just Google the 800 number for this agency and they're going to they're going to help me?

Mallory SoRelle [00:26:47] More or less. I mean, you can actually, for most Americans, if you have access to the Internet, you can hop on onto the CFPB's website. And it's pretty easy to find their complaint system. And you can just file a complaint online. And one of the things that's great about the CFP, they have a very high rate of getting closure on these complaints. So you submit a complaint, then the CFPB sort of reaches out to your financial institution on your behalf. And as you might imagine, they're much more likely to get a response than you are to get a response.

Judith Kelley [00:27:23] Right, right. Right.

Mallory SoRelle [00:27:24] So they get a response from the company. They take that back to you and a sort of negotiation process unfolds until the complaint is essentially closed out, either with some sort of monetary restitution or some other type of restitution or, you know, in some cases an explanation from the institution for why this was a sort of legal or appropriate fee. But almost all of their complaints, upwards of 90 percent, get closed with one of those three options.

Judith Kelley [00:27:57] I mean, that sounds like the system is working just fine. So if that's the case, why why your title Democracy Decline? Like, isn't the system just working dandy then?

Mallory SoRelle [00:28:08] Well, the problem is well, there are two problems. The first problem is that even when you get those complaints managed, the end result may still be that you had to pay a really high fee because the laws aren't in place to say no bank, you shouldn't be engaging in that kind of practice. But the other thing that isn't quite working about the system is, you know, this assumes that someone submits a complaint in the first place.

Judith Kelley [00:28:36] Right.

Mallory SoRelle [00:28:37] But as I talk about in the book, most Americans don't look to government agencies to file a complaint. They don't look to elected officials to try and get them to to pass new policies that would better protect them. Most Americans, when something goes wrong, they treat it as a sort of normal financial transaction. And if they talk to anyone, it's their own bank. And as you might imagine, that doesn't help a lot of people sort of deal with their financial problems.

Judith Kelley [00:29:12] Mm hmm. Mm hmm. So what needs to change?

Mallory SoRelle [00:29:16] Well, I think there are a couple of things that could change, you know, the big picture change that would would help is if our economy didn't rely on people being able to use credit cards and loans to buy things. Right. If we had, for example, more robust public welfare programs or, you know, there's been a lot of discussion recently about will Democrats in Congress try to pass a higher minimum wage? Right. If we had higher minimum wage laws, other ways for people to get that purchasing power.

Judith Kelley [00:29:48] But you don't mean that we shouldn't be using credit cards. I mean, they're very convenient.

Mallory SoRelle [00:29:52] Yeah, no, I mean, they're very convenient. And there's nothing wrong with using credit cards. But when credit cards are the primary sort of financial resource that people have, it doesn't give policymakers a lot of leeway to enact protections that might restrict the supply of credit. So that's the big picture thing. I would say the second thing that would be good to change is to just make governments role in enacting these financial regulations more visible to the public as a whole, because people don't people don't ask for solutions from someone unless they think that that person has a role in the process. So when people get these information disclosures in the course of sort of normal business with their bank or their lender, and they don't see that those those disclosures are all coming because government said, hey, bank, you have to give people this information. They don't think that government has a role in the process. And so they don't think, for example, to go to the CFPB to file a complaint when something goes wrong. And so you're never going to get any sort of political support for stronger laws if people don't think of this as a political problem.

Judith Kelley [00:31:08] Right. I mean, the act of lending money in itself, you know, is an important one for our economy. It's not like we just, you know, somebody listening to you might say, well, you know, that's a very liberal position. We should just make sure people don't need to borrow money in the first place. But I don't think that's what you're saying.

Mallory SoRelle [00:31:25] No, it's not. And, you know, I would say you're absolutely right. The the sort of financial sector has become a huge part of our national economy, in part because of the reliance on consumer lending. And I would say that's not by accident, right. That has not always been the case, that that has been the active construction of government policy makers that have sort of given power to the sector. And obviously, it's very convenient in a lot of ways, but it comes with a cost and it comes with a cost that is not shared equally by all, you know, racial or socioeconomic groups in the US. And so I think there's a real question about what is what is the benefit of the system versus what is the cost. And there are ways to keep the benefits of ease of access and sort of convenience while trying to minimize those costs to people. But you're only going to realize that if people have access to other sorts of financing.

Judith Kelley [00:32:35] Mm hmm. Mm hmm. So are Americans in general burdened with more debt on a on a per capita basis than other countries? And if so, is this like a ticking time bomb? Is this are we are we just waiting for another huge instability event in our economy?

Mallory SoRelle [00:32:52] That's a good question. So the the short answer is that varies from country to country. The longer answer is historically, if we think about, for example, you know, European countries that have more sort of robust social benefit programs that come from the government, it's not that those countries don't use credit, because they do. And in fact, they have historically had potentially even weaker regulations on that credit sometimes than in the US. But it has it has mattered less because people have other sources of income or other sources of money to go out and spend. And so while people use credit, it is they don't they have not had to rely on it in the same way that we do in the US. So, you know, the problem is, I think not necessarily the amount, just the sort of sheer amount per capita we borrow, but the fact that we're borrowing because we don't have other sources of spending. I'll I'll just throw out one quick example that's relevant right now. So there was a sort of study done of borrowers in response to the current crisis around covid-19. And more than half of all Americans said that they, you know, that their their credit card balance has grown...

Judith Kelley [00:34:23] Sure.

Mallory SoRelle [00:34:25] ...after covid and a large part of that is because almost 50 percent of all Americans said that whenever they have a financial emergency, the first place they go to is a credit card. And that looks very different in the U.S. than it does, for example, in countries that have more robust unemployment programs or, you know, child care benefit programs or as you mentioned earlier, where public education is funded more generously.

Judith Kelley [00:34:53] Mm hmm. Mm hmm. So so that's that's all really interesting. But there has got to be some there's got to be some good news in here. So what what are the potentially good news in this story?

Mallory SoRelle [00:35:08] Well, you know, I actually think the CFPB is good news. Right? One of the things that's really great about the CFPB beyond they're potentially more aggressive regulation and enforcement of of credit laws is they make they make governments role in regulating these issues more visible to the public. The CFPB has been pretty active, particularly under its sort of initial leadership, to go out and do field hearings where they're asking the public for input. They actually have a pretty active Twitter presence. The fact that they make this complaint database visible to the public is is an important change. So if we think about an agency like the Food and Drug Administration that's been around much longer, that has a similarly kind of high profile. Most Americans know about the FDA. They can name it. And so we can imagine the CFPB playing that role sort of as it as it gets more established as an identifiable government regulator that people know about. They know sort of vaguely what it does. They know it's there if they need to file a complaint. And that could help people engage more politically, which might then give policymakers a little bit more pushback on what they're doing if their constituents are now demanding that they take some sort of action to pass stronger regulations.

Judith Kelley [00:36:42] So, I mean, one of the reasons we all understand and know more about the FDA, right, is because to sell certain products, they have to be FDA approved. And, you know, we pick up the bottle and we look and, you know, it's FDA approved or wouldn't be able to be on the market. But it doesn't sound like it works in the same way. It sounds like it's it's it's reverse that you don't need approval to to do certain types of lending. But you can get caught afterwards if you make mistakes.

Mallory SoRelle [00:37:10] That's right. And the FDA is a good example of this. You know, if we think about sort of pharmaceuticals, right, they both have to be they have to go through sort of an approval process on the front end. And then when they get to the shelves, they also have disclosures right there. You know, if you go pick up a bottle of Tylenol, right. It tells you what the active ingredients are. It gives you some directions. All of that is mandated by the federal government. And they also have, you know, labels right on the bottle that say this is FDA approved or maybe this isn't FDA approved. Use at your own risk. So they have that pair of both safety protocols and disclosures. Financial products are sort of missing the first part, they mostly only have the disclosures. And then even when you get the disclosures, it looks different from something like the FDA because there's no label on your credit card statement that says the CFPB, you know, approves this or, you know, the CFPB would caution you. You might have to travel if you if you use this credit card.

Judith Kelley [00:38:17] Do you think we're going to see any any drastic changes to how the the Consumer Protection Financial Protection Agency operates with the Biden administration?

Mallory SoRelle [00:38:27] We're definitely going to see a shift from how it's working now. Under the current leadership, so Kathy Kraninger has been in charge since President Trump appointed her. The CFPB became much less active than it had been under the Obama appointed sort of first director, Rich Cordray. Under Kraninger they were much less active in their enforcement of consumer financial protections. And they also walked back some of the rules. I mentioned earlier that the CFPB had developed some, for example, payday lending regulations. Well, under the Kraninger sort of directorship, those regulations were walked back a little bit. They were not as strong as they had had been initially proposed. So Biden has appointed he's not not been confirmed yet, but appointed Rohit Chopra to oversee the CFPB. He's been involved at the CFPB for a long time. He was initially he was an assistant director early on. He dealt with a lot of the CFPB student loan division early early on in its its existence.

Judith Kelley [00:39:46] Right.

Mallory SoRelle [00:39:46] And so assuming he is confirmed by the Senate, we will have a much more sort of pro consumer protection director. And I would imagine that we will see the CFPB once again start to take on a more active, both regulatory and and enforcement position to the benefit of consumers.

Judith Kelley [00:40:10] This is this has been really interesting. And it's such an important issue. If you could implant your little device in the in the ear of of of every consumer so that you could whisper little things into their ears, what would you tell them?

Mallory SoRelle [00:40:28] I would tell them that consumer financial protection and predatory lending is a political issue, just like every other sort of big economic policy issue we think of, like Social Security or tax cuts, consumer financing isn't any different. And if you want better protections, if you want better policies, just like you would with protecting Social Security, right. You should go talk to your member of Congress. You should go talk to the CFPB if you have a problem right. You should treat government as the appropriate avenue to make things better for yourself and for other consumers and be political about this.

Judith Kelley [00:41:13] Got it. So if, since we're not yet in the era where Mallory SoRelle can actually be whispering things into your ear, if you want to understand more about this whole situation, she has just released a book called "Democracy Declined: The Failed Politics of Consumer Financial Protection". You can also find a link on our website, Policy 360.org. Mallory SoRelle is a faculty member at the Sanford School of Public Policy at Duke University. Mallory, thank you so much for sharing your insights with us.

Mallory SoRelle [00:41:46] You're very welcome. Thanks for having me.

Judith Kelley [00:41:48] Well, it's been my pleasure. I'm Judith Kelly and we'll be back with another conversation before too long.