Barefoot Innovation Podcast with Jesse Van Tol, President and CEO of NCRC Reinvestment Coalition

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

Jo Ann Barefoot: I have really been looking forward to today's show, because my guest today is Jesse Van Tol, who is the president and CEO of the NCRC, the National Community Reinvestment Coalition. Jesse, welcome.

Jesse Van Tol: Thanks for having me, Jo Ann.

Jo Ann Barefoot: As I said, really excited about this. The NCRC is an organization that I've known for honestly decades. You've done so much great work over the years and you're one of the advocacy organizations that I think is really becoming a significant participant in the debate and discussion on where we're headed with technology for consumers and communities. So I'm really excited to have you on the show today. I want to start just by asking you to talk about yourself. Tell us your own personal background, what brought you into this role, and then tell us about the NCRC.

Jesse Van Tol: Sure. So I've been at NCRC for 17 years now. It was actually my first job out of college. I graduated from college with a degree in history. I didn't exactly know what I wanted to do. I knew that I wanted to do something in social and economic justice. I moved to DC without a job and I knew John Taylor through my father's work. My father ran a place called Midsouth Peace and Justice Center, and he got involved in banking and CRA and I was just working my network and ended up working for the head of the organization as an assistant. So 17 years later I'm the president and CEO of NCRC.

I got interested in housing banking, sort of the way the financial system works, partially because of my own story. I grew up in Memphis, Tennessee. I grew up in a two bedroom house. There were seven of us, five kids, my two parents, we were renters. We lived in that house until I was 10 or 11 when we managed to buy a home. My mother had gone back to school, was becoming a doctor, but we were low income at the time and I just remember what that moment meant for us going around the neighborhood, looking at houses. I fell in love with every house. I wanted to buy every house, many of them deeply flawed. I remember we saw one house with a swimming pool and I didn't know people had swimming pools in their backyards, but the swimming pool was broken and would've been very expensive to repair. But I was in love and that moment changed our life trajectory in a lot of ways in terms of becoming middle class.

I later came to understand sort of why and how that loan got made. It was an FHA loan, it was a CRA loan. It was not a loan that ordinarily probably would gotten made to my parents who had almost no credit history. They had to go out and get a Sears credit card and buy something at Sears to establish a credit history. So they had no credit history. Then they had a thin credit file. And these are things I came to understand later but has sort of driven my passion for this work. The centrality really of housing, of banking, of financial services to a family's opportunity to build wealth and to prosper. And that's what the NCRC mission is all about. It's really about tackling inequality and specifically wealth inequality. And that's because when we look at the economy, when we look at the outcomes it's producing for people, we see very different outcomes.

The income disparities have closed to an extent on the basis of race and gender, but wealth disparities have not. And wealth is really what allows you to survive life's bad times, what allows you to take advantage of opportunity and good times to start a business or to invest in something that produces even more wealth. And so that's really our mission. We say we're trying to make a just economy a national priority and a local reality. And that's a theme of our conference, which you just spoke at Jo Ann. Really the sort of principally focused on how we think about fairness in the context of banking, in the context of housing and in the context of business and enterprise more broadly. So that's our particular focus who founded with a singular focus on the community reinvestment act as affirmative obligation that banks have. But we've really expanded that focus to think more broadly about justice and fairness in the context of financial services, housing, and other issues more broadly.

Jo Ann Barefoot: I'm glad you started with the personal story. That definitely sets the stage for our conversation. I'm also glad you mentioned John Taylor. John has been a legend in Washington and a great, great admirer of John. Your economy, your conference was terrific and it was called the Just Econ Conference. I really was privileged to speak there. Do you have a definition of a just economy?

Jesse Van Tol: It's one of those things, Jo Ann. It's a vision for a world in which everybody, regardless of sort of accident of birth, zip code, where you grew up, some of the kinds of things that we know lead to dramatically different outcomes in life for people regardless of race, gender, those kinds of things, that people have the opportunity to prosper, to live a healthy, vibrant life out of poverty and to be able to afford life's basic necessities. And that's the kind of economy that we're seeking to create.

I think it's one of those things, you sort of know it when you see it. I think that a thing that's characteristic of the economy as it exists today is that we know that it's deeply unjust and unfair that your zip code has more to do with your life outcomes than your genetic code. That where you grew up, how much wealth you started life with has a really powerful impact on the course of your life and particularly inherited wealth, wealth from your family. And so that over time creates a power imbalance. It means that there are winners and losers in the economy and really the notions of meritocracy, of being able to work hard and play by the rules and do well we believe are largely not true. And maybe they were never true.

Coming back to my story, Jo Ann, I grew up in Memphis. I was born about 10 minutes from where Tyre Nichols was killed in Memphis. And so to think about here I am president and CEO of a national organization doing very well, living, I think, a very good life. And Tyre Nichols is no longer with us and that's really in a lot of ways the accident of birth. He was born Black and I was born white. I was also pretty poor, but my family managed to make it out, to succeed. Really, again, not necessarily as a matter of meritocracy. I don't think they were necessarily harder working than most folks, but just really the accident of birth and the privilege that we had. So those are the kinds of things that we're seeking to address that everybody regardless of birth is able to succeed and specifically for us economically.

Jo Ann Barefoot: Jesse, I'm going to pause this for a second. We've had a little bit of a breaking up of the signal. I'm going to go off camera even though I'm enjoying watching you talk. Well, I'll still be able to see you if you stay on camera.

Jesse Van Tol: Is it on your end or my end?

Jo Ann Barefoot: I'm not sure, but maybe we should both go off camera actually to be safer. And then if it gets worse, I'm going to maybe abort this and try to come back to it after I figure out if there's a technical issue on our end. But I really want to keep going with this. This is just wonderful.

So resuming our conversation. We want to turn in a moment to talking about some of the technology trends and how they come to play in this conversation. But before we go there, share with us what are the main strategies that you think are critical for creating a just economy?

Jesse Van Tol: So our particular focus on wealth inequality, and we do think that that wealth is really asset development. We use the two words interchangeably. We're not talking about becoming rich, we're talking about building up assets, but we really think tackling wealth inequality is critical to creating a just economy. There's all kinds of reasons why a lack of wealth, even for people who become high income, creates an unjust economy, creates a situation where you're not really fully able to participate as a citizen, as an economic citizen of the country. And so when we think about wealth building, the strategies we think about are really related to ownership. Certainly home ownership as a principal strategy, but really any type of ownership of an accumulating asset, an asset that becomes more valuable over time or that creates a store of value that either remains stable or increases in value over time is critical to that.

That could be starting a business, that could be investing in the stock market or other types of assets. And so there's a range of things that turns out that are needed to address wealth inequality. People who are born with very little wealth quite often grow up in communities that don't have community assets. So it's important to invest in community assets, good schools, hospitals, those kinds of things. They quite often experience inferior services that are much more costly. And we can look at that and I think we'll talk about this in the realm of financial services, but there's a high cost of being poor, paying more for groceries, paying more to do the things that you have to do in life and paying more for financial services is a part of that.

Then even if those kinds of barriers and impediments, you get past those issues and so you become a high income individual, because people who are low wealth most of the time also have very little accumulated wealth in their families, I often say that the wealth building is a team activity. And so you see people who become higher income, they're really supporting more than just themselves. They sort of become the bank of family and friends, providing for other folks. And so clearly when we think about wealth building and wealth building strategies, we need to think about them at the individual level, but we also need to think of them at the community level, at the familial level. We need to think about them broadly in terms of society.

That the racial wealth divide is a real thing and average Black family has less than 1/10th of the wealth of the average white family and that kind of wealth imbalance perpetuates itself. There are all kinds of ways in which wealth really begets wealth. So we think, again, coming back to it, we think a lot about asset development and an asset ownership is playing a critical role.

Of course, within that, the kinds of things I mentioned you, if you're paying more for basic services, including financial services, makes it much harder to accumulate assets and wealth. If it's harder for you to buy a home, because of a lack of wealth or to start a business or even to go to college, because you don't have the kind of wealth that others have, it makes it harder to borrow money to do those things. And so your wealth suddenly makes it harder to obtain the kinds of assets, and I would include education as an asset of sorts, makes it harder to obtain those things. When you do obtain those things, you tend to be in greater debt than maybe your wealthier peers, which in turn makes it harder to accumulate wealth and pass it on to the next generation. So those are the kinds of interventions attacking those kinds of issues through the promotion of fairer financial services, of more responsive products and services, particularly for people who are low wealth and for people who are low income as well.

Jo Ann Barefoot: I was on a panel yesterday as it happens that along with Ida Rademacher of the Aspen Institute, and we had a theme that the public policy dialogue tends to conflate the topics of consumer protection and financial inclusion as if they go together, which sometimes they do.

But pointing out that really we, tell me if you agree with this, that we don't have that much public policy focus on inclusion other than in credit and in home buying arguably, but that there's not much of a focus on this wealth building point. How do we include people in the full spectrum of the facets of a healthy financial life, including the ability to save and invest and accumulate some wealth and get out of debt and so on. I found it an interesting focus. Do you have a thought on whether we've sort of under invested our public policy thinking on the inclusion side beyond those areas?

Jesse Van Tol: I think we have, and I mentioned the Community Reinvestment Act as a focus of ours. It's actually a really rare and exceptional law. There are lots of laws that you can think about that essentially say you can't do bad things and you can't on go and do bad things. CRA, which is really about a history of doing bad things. It recognizes redlining, it recognizes place-based discrimination, it recognizes our land use policy, which for the history of the country has been very racist, very classist, recognizes all of those things and says, "You must do good things." You must invest in affordable housing. You must make mortgages equitably and fairly. I think one of the things, Jo Ann, and I have been guilty of this as well, I think in some sense the entire civil rights community has been guilty of this, is we do often conflate our efforts to promote fairness in markets.

We often use language that suggests that it's enough to just stop ongoing discrimination against people. That if we could be just a little bit fairer in the way that we provide financial services or housing or anything else that we could address, things like the racial wealth divide. I think what we haven't always recognized to the degree that we should, and it gets to how much time we spend on things, what policies we promote, is the idea that because of historic unfairness, some people are starting a 100 yards behind the starting line. They're running the same race as everybody else, but they're starting so much further back and because they're starting so much further back, it makes it much harder to run the race. I'll give you just one example. There are lots of ways in which we can contemplate improving the way in which we underwrite someone's credit worthiness when they get a loan. People have talked about the ways in which credit scores are unfair or biased or could be improved, but one of the things, credit scores as a general matter, are actually highly predictive of risk.

So you can filter some things out. You can think about building a better mousetrap, but you have to recognize actually that some people have a worse credit score only because they started life with less wealth. So when life happened to them and life happens to all of us, someone gets divorced or loses a job or has a health issue, these are historically among the greatest causes of foreclosure. If you set aside the financial crisis and sort of the mishigas that happen with mortgages during that time, when life happens, if you don't have wealth, you're likely to default on your credit obligations. And the reason you defaulted on your credit obligations was not because behaviorally you behaved in a more risky way or that you were irresponsible. I think we have often chalked up being a risky borrower to irresponsibility. In fact, you're riskier, because you don't have wealth.

And I think, Jo Ann, we don't always center that part of the conversation when it comes to public policy. That actually that's not necessarily a matter of discrimination per se, it's the result of historic discrimination. But a lender is looking at you and saying, "Hey, they're risky," and perhaps you are risky, because you don't have wealth, but is that fair? No, it's not fair. And so we don't have, other than CRA, I think other than something like affirmatively furthering fair housing, which aims to promote residential integration in the context of housing, we don't have that many public policies which say, "Hey, you must do good," and you must really, regardless of whether you created this problem in a current sense or not, we need to address the history of the country. We need to address things like the racial wealth divide affirmatively.

Or in the future there's not going to be a market of people to lend to. These are critical problems to figure out for the economy. They're critical as a matter of fairness. But yeah, I don't think we focus enough attention on what it would take to really include everybody in the economy in a fair way. I think we tend to underestimate how much work that would be. So I hear a lot of things that are promoted on the basis of, "Oh, well this will help solve the racial wealth divide." I think without recognizing how large the racial wealth divide is, how large wealth and inequality is. Generally the gap between the haves and have-nots, how it really hasn't shrunk and just what you would need to do to really bridge some of those gaps. I think it's orders of magnitude larger than just solving for ongoing discrimination.

Jo Ann Barefoot: We're going to have a show coming up with Lisa Rice. We did one before, but we're going to do another one. Lisa is the head of the National Fair Housing Alliance, as you know, and talking about these points that you're making on the structural bias that we have in so much of our financial and credit systems where the overt origins of a lot of things that brought bias into them are erased now from view, but are still sort of operating in the background, which is one part. It's not the whole thing you're talking about here, but it's part of it. But what do you say when the lending community says that we still need to be confident that the loan will be paid back and if we make a loan to someone who can't pay it back, it might harm them more than help them?

Jesse Van Tol: Yeah, I think it's a fair point. One of my frustrations, Jo Ann, so for decades there's been this really active dialogue about fairness and mortgage lending, fairness and small business lending, fairness and credit provision generally. I think it is possible to build a fairer and less discriminatory mousetrap. I think one of my frustrations when we have that conversation with where the lending institution is on the one hand, companies will say exactly what you just said, "Well, the loans we didn't make, we didn't make because of legitimate concerns that the person couldn't pay it back. We don't want to put someone into a loan that they can't sustain. It'll damage their credit. It negatively impacts their wealth." And I think we have certainly seen a lot of that, certainly in the run-up to the financial crisis.

On the other hand, many of the same companies have opposed providing the kind of data in the context of HMDA, the Homeowners Disclosure Act or Section 10 71, which is like HMDA, but for small business to provide the race and gender of small business borrowers and to provide critical data points, things like credit score, debt to income, the kinds of metrics that would allow you to actually ascertain the degree to which bias, discrimination, et cetera, are playing a role in modern lending.

I think it's fair to say, I think we know that there's some level of bias. I think many studies have found this that there is ongoing racial discrimination, some of it more overt than others, that there is a disparate impact in the way in which lenders have structured their underwriting policies. I also think that it's fair to say that there are some reasons why we have disparate outcomes that have everything to do with historical factors and some of those historical issues. The racial wealth divide itself, the fact that not having wealth does actually in a sense make you a riskier borrower.

There's I think a legitimate question about, to what degree is that a problem for a lender to solve and to what degree is that a problem for the government to solve? I think that it's in fact both. I think that many of these problems were really created with government involvement. When you think about redlining, when you think about slavery, which was the legal owning of other people, denying them of the fruits of their labor, essentially, stealing the fruits of their labor. Government has a really significant role to play. I think it's fair to say that sometimes we put all of that onto a private company and certainly I'm an advocate that companies can do more, can think about things differently, can provide the data to show whether discrimination is occurring or not. But I also think that there's a really significant role for the government for public policy to play in this regard.

Jo Ann Barefoot: So that's a great segue into talking about how you're looking at the technology trends that are reshaping the financial sector at one of which is the availability of a whole lot more data for things like underwriting as there's a whole surge of activity and underwriting that's trying to gather more data than credit history and credit score, which might have great upside potential, but also could make things better or could make things worse instead of better, depending how it's done, it seems to me.

I'd like to ask you first, when you look at the trends that we're seeing in tech, whether it's broad trends that affect everything like the explosion of data or whether it's FinTech innovation, I want to ask you what changes seem positive and promising to you? And then I'm going to ask you which ones you're worried about or against. But starting with the positive, what would you point to that is promising?

Jesse Van Tol: Well, and I think separate out a little bit, I think there's the promise and potential of technology, the kinds of things that we can envision happening, which by the way, I think that there are great many things that show promise for the future. Then I think there's the actual effects that a way of technology innovation is having on financial services today. I think clearly we have seen some benefits from the lowering of costs of things like just basic things like payment services. It's much easier today to make a payment or to send money from one person to another person in ways that even five, 10 years ago would've been really expensive. I think so too in some ways, much easier to access credit, short-term credit to buy goods and services. I think that's a positive and a negative trend, and I'll talk about the negative in a moment, but I think, Jo Ann, all of that has also led to things. I think there's been a lot of advocacy by us and others around things like overdraft fees.

I think part of the reason why many banks have dramatically reduced overdraft fees or done away with them altogether is because of the disruption that technology is playing in financial services. I think there are competitive threats from financial technology companies that can do the same thing for less or without charge. I think technology inside of banking institutions is making it literally easier for them to do some of the kinds of things in the context of overdraft or a short term emergency credit need that five, 10 years ago they couldn't do. And I think that's dramatically lowering those types of costs for people. I think technology is clearly starting to play and could play a very important role in the prevention of fraud and abuse, and I think that operates on a number of different levels. I think here too, there's sort of the positives and the negatives.

I also think it's the case that technology is being used to really levy broaden abuse against consumers. But clearly, Jo Ann, the potential of something like blockchain technology, the ability to really have perfect fidelity of information and fidelity of a chain of ownership creates significant potential, I think in ways that we're starting to see to prevent fraud and abuse. I think that's potentially a very powerful use case. I also think we're starting to see probably more in the intellectual property space than in the real property space, the use of technology to protect properties, certainly intellectual property.

When you think about what's being done in that kind of space, the ability of artists to create and protect digital art in new and powerful ways, I think that that will prove to be transformational over time. I think we've maybe yet to see that translates into other forms of property ownership, protection of property ownership. For example, something like title insurance could be rendered completely moot. If you had property records stored on the blockchain, there wouldn't be a need to ensure or protect legally any type of dispute around the chain of ownership of a property, because there could be no dispute. You'd have perfect fidelity of the chain of ownership over time. I think that's something for the future that is potentially very beneficial. I think we are starting to see some impact. I think it's oversold and perhaps overestimated. I think we're starting to see some positive benefits of technology when it comes to underwriting differently. Thinking about the extension of credit differently.

I think you see some benefits there. I think that will hopefully drive down the cost over time. I think there's some potential there, as I mentioned before, to expand fairness and inclusion, although I think there are limits to that as I outlined. I think we've seen that. Certainly we've seen that when you think about, again, coming back to payments, accepting payments, when you think about just the revolution in terms of the ability of a small business to accept a payment online or even in person, something like square or similar devices that have just really enabled a larger group of people to easily accept and process payments, I think we've seen positive changes in that space.

Jo Ann Barefoot: That's a great overview. Really, really helpful. So now let's talk about the downside. What are you worrying about in the tech?

Jesse Van Tol: Well, and I sometimes say I think I view technology as neither inherently bad or good.

Jo Ann Barefoot: Yeah, I agree.

Jesse Van Tol: I think it's the way in which it's used. I think one of the things I worry about, Jo Ann, is I hear quite a lot of things where I think the promise of something like FinTech is perhaps a little different than what is actually delivered. Again, I think we've seen companies and products that claim and promote themselves as really solving for financial inclusion or economic empowerment or really being a dramatically, a radically different way of delivering financial services in ways that are much more pro-consumer than the banking industry. I think that's been over promised and under delivered. I think there's a concern within that space that you see a number of insurgent sort of companies challenging the banking system who as we go through an economic downturn here, these are companies built on this kind of technology centered approach of move fast and break things where in some ways the entire strategy is to grow and gain scale and to do that by undercutting the competition.

I think there's a concern that to the degree to which you see financial technology companies delivering a lower cost product than perhaps some of the banking sort of incumbents, that those are sort of temporary benefits. That over time as those FinTech companies confront the realities of banking and go through economic downturns and confront some of the flaws within their own business model and actually have to make money to survive, that that sort of cost benefits that they were delivering, that was really a way of gaining business, of being a lost leader. That those are not sustainable business models over time.

Five years ago or so, I was on a panel at the Financial Health Network conference with Colin Walsh of Varo, and I made a statement that I think he and maybe some of the other FinTech evangelists I just didn't terribly like. But I said I think most FinTech companies that are competing with banks, and to be clear, not all are, there's many different spaces within financial technology, but as I said I thought most would become banks, be bought by banks, or fail. I don't think that story is entirely written yet, but I still feel confident about my prediction in that regard. One of the other things- Yeah, go ahead.

Jo Ann Barefoot: I was just going to say, I think your prediction at this point is looking pretty accurate. Obviously, we haven't had a whole lot of them become banks, because that option got shut down a bit for the time being, but the business model of the non-bank lenders is definitely under stress.

Jesse Van Tol: I think another thing, Jo Ann, I think you can focus on positive examples. I also think technology is being used to harm and abuse people. One context for that, I think I worry a lot about what I'll call digital reverse redlining. Reverse redlining is the idea of targeting a group of people for higher costs, more predatory financial services than they mightn't have otherwise been eligible for. So really affirmatively trying to reach people who may be less sophisticated than other groups or there may be a reason why a more sort of predatory or higher cost outfit is targeting them. I think that technology really enables that in very powerful and dangerous ways. I mean, I think people are probably familiar with, I think it was years ago, it turned out like Amazon was charging people who used Apple computers more than people who used PC computers, because they could and because there was an assumption about the relative wealth of an Apple consumer and they were using essentially dynamic pricing to charge people different amounts.

That concept, I think, we see playing out in a lot of different ways. People are targeted differently based on who they are. And I think it's challenging to detect, so your user experience, what kind of ads and information you're being offered, what kind of products you're being offered, how much you're paying for certain services, including financial services may be completely different than another person and you may not know that. And for that matter it may be very difficult to document that. And that sort of digital reverse redlining is something I think is already happening and I think there's great potential for that to happen to an even greater degree in the future unless we do some things to root it out and to put an end to it. I think that there are things we need to do to ensure that's the case. The other thing, Jo Ann, is that I think scammers and fraudsters are using technology to commit financial fraud against people or to scam them.

I'll give you a personal example, and I know you're a real expert in the whole world of AML and fraud and this is maybe just a little more common type of scam than some of the stuff we think about and contemplating that place. But the other day my wife and I couldn't find our cat and the cat had just had surgery. It's an indoor cat. We couldn't find him in any of his normal hiding places in the house. He's got this huge cone around his neck, so it is difficult to lose. The end of the story, so people don't worry is, we found the cat, cat was stuck in a closet and because of the cone he could get in but not get out and we found the cat. But there was a moment in time for a few hours where we thought maybe the cat had gotten outside and escaped.

So my wife took to Facebook posted on the neighborhood Facebook group, "Lost cat, has anybody seen her cat?" And within 30 minutes, Jo Ann, she had a text message, I have your cat. And you can imagine in that moment, I mean we're like, our son's going to be distraught. This is a family cat, it's beloved, it's injured, all this stuff, and so we're so happy and so relieved. Then immediately the next text message was, log in here to verify your identity and it's a scam. And it was someone who was running some kind of algorithm, whether it was scraping information off of social media to perpetuate a financial scam. Obviously, we didn't click on the link. I don't know exactly what the endgame of that was, whether that was an attempted identity theft or to extract some amount of money. But you hear these stories and that type of scam is being enabled by new technologies in which bad people have access to a lot more data about people than they used to be able to get.

They have ways to aggregate it using technology and they have some level of whether it's AI or other forms of technology to really turn that into an actionable scam against large number of numbers of people in ways that are really clever. And you can imagine just how vulnerable someone is when they think they've lost their cat. The propensity of some people to do whatever to get their cat back, it's really dangerous. We often rightly focus on the ways in which technology is changing things for the better in terms of user experience. I think it's also the case and the real risk, Jo Ann, is that we don't invest enough money in using technology as a force for good in a regulatory context, et cetera. That people who are using it for bad things really outpace our ability to detect and prevent those kinds of scams.

I also worry if I'll just throw this out there and then maybe talk more about it later. I worry just a lot about people, you sort of see this within the context of Facebook or other social media platforms, people really becoming the product. And so the provision of low cost, including low cost financial services in which in fact the product is accumulating and aggregating a lot of data about you that can be sold to people who are attempting to market or sell products to you. By the way, I think that data is being bought and sold by people who have nefarious purposes for that data. I think we see some financial technology, some of it ostensibly aimed at inclusion or promoting fairness within the context of financial services in which people are really becoming the product. And so they may not be paying for what they're receiving, but their data is being sold indiscriminately in some cases. And people like the scammer I just mentioned who tried to scam us over a lost cat, are buying that data and using it to perpetuate fraud and abuse.

Jo Ann Barefoot: So I have so many questions I want to ask you, and I know we're going to run short on time. Let me ask you quickly to address a couple of hot topics. One is, how are you thinking about cryptocurrency and digital assets regulation and what do you see as potential upside and concerns in that realm?

Jesse Van Tol: Yeah, I think, well a couple of things that I'll say about this, and I think I'm on record as being a bit of a crypto skeptic in the sense that I think certainly when we think about the use of crypto in the way that crypto has evolved as a currency, which was really some sense, the original use case, I think we've not really seen highly successful examples of that where crypto's really been used for the daily exchange of goods and services. I'll talk more in a minute about stablecoin and potential use cases for that. I think also that crypto as a wealth building mechanism in terms of asset development, I mentioned earlier I think there is a really positive use case for the protection of property and protection of intellectual property in particular.

So as a way of protecting digital rights and digital property, I think it has great potential and great power and that is a way of protecting and building wealth. But I think it's a speculative asset. Again, my primary perspective is low wealth people, low income people, certainly I think everybody has an example of someone who got rich off of Bitcoin, what have you. But I think for most people it's just too risky an asset unless you have a lot of money to put at risk, it's sort of a risky asset. So in that sense, and I think recent events, I think there is danger in terms of sort of letting crypto inside of the banking perimeter. Certainly when we look at the failure of Silvergate Signature to a degree, it's clear the sort of depegging of even things like USTC temporarily. I think there are some risks and some dangers associated with that.

That said, we can see a use for stablecoin. I think the way that the model that we've promoted and the way we think about the regulation of that is leading towards some sort of tokenized deposit that captures some of the benefits of ways in which you can use a tokenized deposit or ways in which you can leverage the underlying blockchain technology to facilitate payments, transfer to funds, et cetera, but also protect the banking system from the sort of wild volatility of most cryptocurrencies. So I could get even more detailed on that, Jo Ann, but I think that's just kind of how we look at it. And we, maybe more than some, think that there is some value in the use case here. But I think regulators are right to be cautious and concerned about the implications of all of that and risks that could create for the banking system if you let everything inside or if you let a broader range of things inside the sort of banking regulatory perimeter.

Jo Ann Barefoot: So last hot topic, and then I've got another question for you, but what should we do about AI and especially the turbocharged versions of AI that we're seeing with ChatGPT and generative AI, which looks like it's coming much faster than some society is ready to deal with? And do you see upside?

Jesse Van Tol: Boy, a small question.

Jo Ann Barefoot: We could do another show on it if need be.

Jesse Van Tol: Well, so obviously there's things we've concerned about in the context of AI and things you've probably talked about on your show before and you mentioned Lisa Rice, I know she talks about this quite a bit, algorithmic discrimination, the kinds of ways in which AI is being integrated into underwriting models. Patrice Ficklin of the CFPB said at our conference, she made a statement which is making some waves, but really that in the context of lending, that lenders must search for lesser discriminatory alternatives. That this applies, not just to simple models, but also to AI and machine learning tools. I think that's of critical importance. I think that certainly any model in the context of lending and credit provision that's using AI or machine learning, there need to be some standards and some tests for how that is deployed in ways that protect consumers from harm and from discrimination.

In terms of the promise, Jo Ann, one of the things that I think is very promising, even something like ChatGPT, I think people think about those things in terms of publishing or the production of work, there's been a lot of hand ringing about kids cheating on their homework kind of thing. But I think it potentially very powerful in terms of research and listening and gathering information. I go back and think often, Jo Ann, about sort of the underlying principles of capitalism, which is to say of the way in which markets work and in today's context, Adam Smith's sort of like a radical thinker in some ways. He said, I'm sure I'm doing damage to what he said, but just to sort of synthesize it a little bit, "That the markets produce mutually beneficial outcomes for two parties engaged in a transaction." But there's a critical piece to that theory that I think is often overlooked, which is that it depended on perfect information on both sides of the transaction.

Jo Ann Barefoot: Absolutely. I say this all the time, I agree.

Jesse Van Tol: I think one of the ways in which capitalism has produced bad outcomes for some people, including wealth inequality, is that so many market transactions don't have perfect information on both sides. And in most cases it is consumers, it is people purchasing goods and services who are at a disadvantage for a number of reasons. One is power, so large, really any financial institution, just use an example, a mortgage company or a bank pre-financial crisis. I mean, these are companies that are making tens or hundreds, maybe even millions of transactions. There's an information asymmetry in the market transaction between that bank or mortgage company that was making a loan that, let's say, subprime loan that went bad.

Whereas the homeowner, this might have been their first home, it might be the only time they buy a home in their life, they might engage in that transaction 2, 3, 4 or five times in their life at most. And so the information asymmetry there, which is really a power asymmetry, is heavily stacked in favor of one of the participants in the transaction, the bank or the mortgage company against the person taking out the loan. I do think something like ChatGPT, the use of AI as a research tool and as having the potential to level the playing field when it comes to information asymmetries in market transactions is potentially large.

I think a lot of people today when they're engaging in something for the first time, they're using really imperfect ways of gathering information. They're asking their friends, they're relying on their realtor, they're relying on the mortgage lender themselves. In other words, the rigor of gathering enough information to make an informed decision in a way that ensures that market transaction, that there's a relative amount of or relative balance of information on both sides, the deck is stacked against you.

I think something like ChatGPT or the ability to use AI to quickly say, "Hey, ChatGPT, I'm being quoted X for this mortgage product, is that the best available product for me?" And to quickly gather a lot of information about the potential considerations as you engage in a market transaction that really just as a matter of time efficiency would be difficult for you to do on your own Googling, because you don't know what to Google to begin with. And translating that into the ability to ask a simple question of an AI and to generate a complex but also simple to understand answer, potentially has great power.

Jo Ann Barefoot: Thank you. We're thinking about doing a tech sprint on this actually, it doesn't change the fact that there's a lot of very, very alarming ramifications potentially from these large language models. But you can see the possibility of a person being able to do that or even having a personal AI that is guarding your concerns on whether your data is being misused or whether you're getting a fair product or whether you're getting best quote or whether the product has hidden terms. It could be a breakthrough from this very point you're making on market asymmetry, because the consumers almost always at a disadvantage in financial transactions.

Jesse Van Tol: Yeah, that's right. I would say the potentials there, I don't have great confidence. I think one of the things that we've seen, and I think this is the place for public policy, this is a place for public investment, that the types of private investment in this kind of thing also outpaces the public investment, the investment that's made in the public interest and for public purposes. So the development of these kinds of tools explicitly to promote pro-consumer outcomes, just pale in comparison to the ones that are designed to make money off of people and even scam and abuse people.

So I think the potential is there. Again, I think, Jo Ann, when I think about the use of technology, you can think about it in a risk reward type of framework, I think we're often concerned about risks and actually maybe sometimes the solution to the risk is more investment in something that poses potential risks to ensure that in the way that it is developed and designed, it produces positive outcomes for people. I think in some cases we sort of think about it in the opposite way. It's risky. We want to discourage, we put up guardrails, much of which is necessary and needed as well, but we run the risk that the market innovation really just so dramatically outpaces any of the kind of public good infrastructure that's built around it, that these kind of things do end up being a force for bad and not a force for good.

Jo Ann Barefoot: Interesting. Jesse, I know we are running short on time. Let me turn you briefly to the question of what to do, if you put yourself in the shoes of policymakers on Capitol Hill or regulators and you had to point to say the three most important things, if I could frame it like that, that you think should be done, what would you cite?

Jesse Van Tol: Oh, boy.

Jo Ann Barefoot: Not a fair question.

Jesse Van Tol: Well, I think building off of the point I just made, and I think, Jo Ann, as vilified as the CFPB has been by the industry, I do think there's a core underlying theory behind the Consumer Financial Protection Bureau, which was about attempting to correct for information asymmetries and to promote competition in markets. I think when we think about competition in markets, I think the way in which we have structured that in terms of regulatory policy is badly in need of an update. Certainly that's being examined currently in the context of bank merger review.

Is the HHI index the right way to think about competition and financial services? Probably not. I think there's consensus around that, but what does it really mean to promote competition in a way that levels some of the kinds of things I've talked about, information asymmetries, just really thinking about market power, not as something that only happens when a company grows to be very, very large, but in fact happens in a lot of market transactions when one side of the transaction is maybe only engaging in that transaction a few times in their life. And the other side is engaging in it all the time and learning and building infrastructure around it.

So I do think this sort of principle of competition, and this has become more sort of in vogue recently, there's people who think about antitrust, but in a more basic way. Again, going back to Adam Smith, what would it mean to actually have markets that are competitive in which both sides of a transaction have some level of perfect information? And I think public data, data collection plays a role. I think that things like the consumer compliant database play a role, but there's a lot more that could be done not just by the CFBB, but certainly by the banking regulators and probably quite a few other agencies to promote more market competition.

The second thing I'll say it's just clearly banking regulators very behind in investments in technology. I think the point that I made about this sort of risk reward analysis that I think banking regulators often sort of risk averse in the sense that doing something new and different is risky. I think bank regulators live in fear that they'll be blamed as we see playing out in the Silicon Valley Bank and Signature bank failures. And I think it can at times create a dynamic where people really shy away from things that probably they need to lean into and that we can look at the way in which technology is transforming financial services and we can be concerned about negative things that are happening in that regard.

But sort of either way, we need to make dramatic and significant investments in technology. I think that, some people would point out government's not well positioned to be a technology innovator. I'm not even talking about technology innovation, I'm really talking about just core and fundamental investments in technology. I will say, this is a political problem, I don't think bank regulars wake up and, "I don't want to invest in technology today." I think there's a real political challenge here too.

I use a non-bank regulatory context, FHA. FHA has a major pipeline. It's one of the basically largest mortgage companies in the country and it's technology platform runs off of COBOL, which is a coding language that nobody learns anymore. In fact, I believe they have to actually train people to program in COBOL to keep FHA running. And there have been multiple occasions where FHAs technology platform goes down. In one case, I think for almost two weeks it was down and no FHA mortgage got made during that time.

It's not the case that FHA has not invested in technology because they don't want to. It's the case that their budget is subject to appropriation and Congress doesn't approve enough money for them to invest in technology. So even though the bank regulators budgets work differently funded by the banks, essentially, I think the same sort of political pressures apply, which is to say, I'm not sure banks that are regulated by these regulators want their regulators to have the latest and greatest technology and robust technology platforms. In addition, I think regulators could be more technology forward and certainly we've seen some of them create offices and invest some time and energy in tech, but I think they're dramatically behind.

Then I think the final thing I'd say, the third thing I'd say, is just really codifying some principles that apply regardless of structure. So some banking rules have been developed in the past really based on the exact structure or charter or nature of an institution. CRA is one example, only applies to deposit taking institutions, to banks. I think you see in more modern regulation, theories of regulation that apply to certain activities regardless of charter or structure and that creates some challenges. It creates jurisdictional challenges. Who regulates an activity if and when maybe a primary regulator, a regulator's not the primary regulator for that entity sort of legally, structurally. But I think you see this in some CFPB rulemaking and things like the disparate impact doctrine where we can think about if a product produces disparate impacts, we need to look for lesser discriminatory alternatives. That's a principle that you can apply to a broad range of products regardless of structure of companies.

I think regulators need to spend more time thinking and developing what are those principles? I think one of them is to the degree to which a financial product or service is really not the best available product or service to the consumer, to the degree to which consumer gets trapped in those kinds of ecosystems where they're being offered products and services that don't create value for them or that create a very skewed value. I think there's ways to develop some principles around that type of behavior that could be very powerful, particularly in the technology space where we know and see from example, lots of companies that develop technology and develop technology ecosystems that are really designed to trap a consumer in their ecosystem.

I use trap, maybe trap's too negative a word, but they're designing systems that are sort of closed in, that are designed to promote a consumer continuing to use their products and services by making it really easy to exist in that ecosystem. I think there's a danger of that happening in ways that are really harmful to consumers. I think regulators need to think about breaking up those kinds of systems and promoting principles that create more interoperability, that create more consumer ability to use and leverage and own their own data and carry and import that with them, whatever company, whatever service they're using.

Jo Ann Barefoot: This is so thought-provoking and so valuable and I especially want to thank you for the second point that you made and calling out this issue of the regulator's own technology. This rarely gets mentioned and as you said, I think the regulators are doing the best with what they have, but what they have is from the analog age, so to speak, not the digital age. It's got some newer technology layered over it, but a lot of their underlying technology really is old mode, and yet they're trying to regulate these digital companies that are changing at light speed. Products are changing and structures and infrastructures and business relationships and delivery modes and everything else. I really think we need a modernization of the regulatory infrastructure itself. So I'm delighted that you brought that one up, but these are all so great.

I could talk to you all day, Jesse. I'm going to be at risk in preparing my show notes, trying to repeat everything you said that was interesting to me and then I'll have repeated the whole episode, so I'll try to refrain from doing that, but this is just absolutely terrific. Where can people learn more about NCRC?

Jesse Van Tol: NCRC.org and certainly mentioned our Just Economy Conference. It's over for the year, but it will happen next year, April two through four in Washington DC. You can find more about that ncrc.org/justeconomy.

Jo Ann Barefoot: Wonderful. And we will put a lot more information into the show notes at regulationinnovation.org. So Jesse Van Tol, thank you so much for being my guest today. It's been fantastic.

Jesse Van Tol: Thanks for having me, Jo Ann. This has been fascinating and enjoyable and really appreciate the thoughtful questions and conversation.

Jo Ann Barefoot: Thanks.