



The Golden Apple

Reporting on the latest discord from Capitol Hill

In classic Greek mythology, a golden apple of discord inscribed "For the fairest" was awarded to Aphrodite, beginning a chain of events that led to the Trojan War. GrayRobinson's newsletter reports on the most recent issues, individuals, and discourse deemed fairest in Washington.

December 6, 2019

You too could eat like a Member of Congress

But would you want to? Since October, the Members' Dining Room of the House of Representatives has been open to the public on days when the House is not in session. Reservations are required — [you can book a table here](#) — and prices are quite reasonable by DC standards. Be warned, though: a [Washington Post review](#) this week gave the place only half a star (of a possible five), and called it "one of the sorriest dining experiences in Washington." The bean soup is good, though.

Senate Commerce moves closer to action on data privacy

A [Senate Commerce Committee hearing on Wednesday](#) highlighted emerging consensus on major elements of a federal data privacy bill, including vesting federal authority over privacy with the Federal Trade Commission; giving the FTC the authority to levy fines for first-time violations; giving the FTC rulemaking authority to implement statutory privacy protections; and authorizing state attorneys general to enforce the federal law. Senators and witnesses agreed that privacy is a right, and that bipartisan agreement on legislation is essential. Disagreements persist about whether and how a federal privacy law should preempt state laws, as California prepares for its Consumer Privacy Act to take effect in January; and about whether and how a federal law should preserve a private right of action.

Cybersecurity tops FSOC's list of "moderate" systemic risks

The Financial Stability Oversight Council published [its annual report](#) this week, and its contents became the main topic at Treasury Secretary Steven Mnuchin's [appearance before the House Financial Services Committee](#) yesterday. Mnuchin said that cybersecurity is his own greatest concern as well as the first one listed in the FSOC report; they are focused on educating banks and other participants in the financial system about these risks, and helping them address the risks through prevention and mitigation. The transition from LIBOR to SOFR is another area of attention, which might need Congressional intervention; regulators met with representatives of 10 large banks this week to discuss the transition. Leveraged lending and housing finance reform are also priorities for Treasury, Mnuchin said. He urged the House to move quickly to approve the US-Mexico-Canada free

trade agreement.

Two days with the regulators

The federal financial regulators appeared before the [House Financial Services Committee](#) and the [Senate Banking Committee](#) this week, with the notable exception of Comptroller of the Currency Joseph Otting. Banks and credit unions are prospering, but legislators' memories of the 2008 crisis persist, and House Financial Services Committee Chairwoman Maxine Waters (D-CA) warned against the administration's "dangerous deregulatory blueprint." Other lawmakers grilled the regulators about plans for Community Reinvestment Act reform; the OCC and FDIC have published an advance notice of proposed rulemaking that the Federal Reserve Board did not join, but Fed Vice Chairman Randal Quarles said he expects any final rule on CRA will be a joint one among the three agencies. FDIC Chairman Jelena McWilliams emphasized that she wants new CRA rules to expand access to financial services; the FDIC Board will meet next Thursday to vote on a notice of proposed rulemaking that should detail their plans.

McWilliams defends ILCs

State-chartered industrial loan corporations (also known as industrial banks) came up at both the House and Senate hearings this week, and FDIC Chairman Jelena McWilliams said these specialized charters are healthy and well-regulated. Responding to a question from Rep. Ben McAdams (D-UT), she said that the FDIC holds ILCs to the same standards as other state-chartered banks, and has the authority to enforce agreements between ILCs and their parent companies to maintain capital and liquidity requirements. Senator John Kennedy (R-LA) asserted that ILCs aren't "regulated like other banks," but McWilliams said they regulate deposit-taking ILCs in the same way they regulate banks, with the same statutory authority.

Humans still necessary to financial services

Contrary to the title, no robots testified at the House Financial Services Task Force on Artificial Intelligence's "[Robots on Wall Street](#)" hearing this morning. Instead, industry and academic experts discussed the growing use of automation and machine learning in the financial markets, and the implications for jobs in the sector. A recent McKinsey report suggested that automation could replace as many as 40 percent of current jobs in financial services, but witnesses pointed out that technology will create new jobs that will require new skills. As fintech applications gather increasing amounts of data, humans will still need to decide what questions to ask, and how best to filter signal from noise. Beyond that, regulators will need help from the private sector to implement "regtech" that keeps up with technological advances. Nasdaq's Head of Market Surveillance, Martina Rejsjö, described how Nasdaq is already using AI to flag suspicious behaviors and patterns, and identify new threats.

A consolidated Congressional calendar for 2019

Even when they're controlled by the same party, the House and Senate aren't great about coordinating their calendars. The communications firm [Rational 360](#) compiles a unified Congressional Calendar every year, and has just distributed its 2020 edition. We find it invaluable, and we are glad to share it with you — you can [download it here](#).

Confirmations, Nominations, Departures

- **Rep. Denny Heck (D-WA)** announced Wednesday that he will not seek reelection in 2020, but will retire at the end of this Congress.
- **Rep. Tom Graves (R-GA)** announced yesterday that he will not seek reelection next year.
- **Rep. George Holding (R-NC)** will also retire at the end of the 116th Congress.
- **Georgia Governor Brian Kemp (R)** has appointed Kelly Loeffler to the U.S. Senate, succeeding Senator Johnny Isakson. Loeffler has been CEO of Bakkt, a subsidiary of Intercontinental Exchange.

Next Week in Washington

- **December 10 at 10:00 a.m.** House Financial Services Committee will [meet to mark up legislation](#). A list of pending bills is not yet available.
- **December 10 at 10:00 a.m.** Senate Banking Committee holds a hearing on "[Oversight of the Securities and Exchange Commission](#)," and will vote on several nominations.
- **December 10 at 10:00 a.m.** Senate Judiciary Committee holds a hearing on "[Encryption and Lawful Access: Evaluating Benefits and Risks to Safety and Privacy](#)."
- **December 11 at 10:00 a.m.** The Brookings Institution hosts an event on "[Brokered Deposits in the Fintech Age](#)," with FDIC Chairman Jelena McWilliams delivering the keynote address. The event will stream online live.
- **December 12 at 2:00 p.m.** The [FDIC Board of Directors will meet in open session](#) to discuss and vote on a Notice of Proposed Rulemaking on Revisions to the Community Reinvestment Act Regulations, and on a Notice of Proposed Rulemaking on brokered deposits. The meeting will stream online live, [here](#).

The Ellis Insight

Jim Ellis reports on political news

President

Gov. Steve Bullock: Montana Gov. Steve Bullock released a statement withdrawing from the presidential campaign saying, "while there were many obstacles we could not have anticipated when entering this race, it has become clear that in this moment, I won't be able to break through to the top tier of this still-crowded field of candidates." While the Democratic leadership had been encouraging Gov. Bullock to instead challenge Sen. Steve Daines (R-MT), the former presidential candidate reiterated that he would not become a candidate.

Sen. Kamala Harris: Sen. Kamala Harris (D-CA) this week announced that she is suspending her presidential campaign, effectively bringing her national effort to a close.

The announcement timing, with the California candidate filing deadline looming on December 6th, suggests that her move is geared more to her Senate seat than the presidential race. Falling back into single digits in all polling, even those from her home state of California, suggests she would do poorly in the state's March 3rd Super Tuesday primary. Doing so might hurt her 2022 re-election chances against another Democrat, so leaving the race now means she won't have to place her name on the 2020 California ballot.

Joe Sestak: When former Congressman and retired Admiral Joe Sestak entered the Democratic nomination field few seemed to notice, and his campaign never made even a ripple among the other contenders. Therefore, it is with little surprise to see Mr. Sestak end his campaign over the Thanksgiving holiday weekend. A total of 16 active Democratic candidates remain.

Democratic Debates: Sen. Kamala Harris leaving the presidential race, even though she cleared the threshold for the December 19th national debate forum from Los Angeles, means that only six candidates have officially qualified to participate with another three straddling the edge. The qualifiers are former Vice President Joe Biden, Senators Elizabeth Warren, Bernie Sanders, and Amy Klobuchar, as well as Mayor Pete Buttigieg and, somewhat surprisingly, businessman Tom Steyer. Needing more favorable polling are Sen. Cory Booker, Rep. Tulsi Gabbard, and businessman Andrew Yang, but the latter trio still has time to secure their speaking podiums.

Democratic National Committee chairman Tom Perez recently said that the organization has not yet decided upon requirements for the 2020 debate series. Therefore, new presidential candidate Michael Bloomberg, who is not accepting campaign contributions because of his excessive wealth, may yet have a way to qualify for the 2020 programs.

California Poll: The University of California at Berkeley just released their late November poll that concluded just before Thanksgiving (11/21-27; 1,694 CA likely Democratic primary voters) and finds the four major presidential candidates all getting into range to qualify for first ballot delegates. The poll was taken before home state Sen. Kamala Harris exited the race and she recorded 7% support in this poll.

According to the Cal-Berkeley results, Sen. Bernie Sanders has grabbed the lead with 24% followed closely by Sen. Elizabeth Warren's 22%. Former Vice President Joe Biden records 14%, just ahead of Mayor Pete Buttigieg who attracts 12 percent. Under Democratic National Committee rules, candidates must receive 15% to qualify for at-large delegate apportionment and it appears all four of these candidates are positioned well enough to clear the minimum threshold. California has the largest delegation at the Democratic National Convention with 416 first ballot delegate votes.

New National Polls: Two new small sample national Democratic primary polls were just released and though the polling error factor is high and the two surveys come to different conclusions, it is clear that evidence is building to support the premise that a four-way race for the Democratic nomination is developing.

Change Research (11/30-12/3; 456 US likely Democratic primary voters) reports one of the tightest four-way races we've seen: Sen. Elizabeth Warren 21%; Sen. Bernie Sanders and former Vice President Joe Biden tied with 17%; and Mayor Pete Buttigieg closely behind with 14%. YouGov (12/1-3; 543 US likely Democratic primary voters) sees Mr. Biden leading

with 27%, Sen. Warren polling 18%, Sen. Sanders at 13%, and Mayor Buttigieg posting 12% preference. Once the numbers are extrapolated into votes, it appears that all four of the candidates would qualify for first ballot delegate votes from around the country.

Illinois Poll: If the new Victory Research Illinois poll (11/22-25; 1,200 IL likely Democratic primary voters) is within the realm of the final vote, then four candidates would qualify to split the state's 155 first ballot delegates. According to the survey, former Vice President Joe Biden leads with 23%, Sen. Elizabeth Warren is next with 17%, followed closely by Mayor Pete Buttigieg's 16% and Sen. Bernie Sanders 15%. Extrapolating the delegate count, we find the candidates would be closely bunched, earning the following approximate number of delegates: Biden 50; Warren 37; Buttigieg 35; Sanders 33.

Senate

Alabama: Alabama Secretary of State John Merrill announced early this week that he is ending his campaign for the Republican Senatorial nomination, saying that former Sen. Jeff Sessions being back in the race added obstacles that he could not overcome. In addition to Sen. Sessions, US Rep. Bradley Byrne (R-Mobile), former Auburn University head football coach Tommy Tuberville, former state Supreme Court Chief Judge and 2017 Senate nominee Roy Moore, and state Rep. Arnold Mooney (R-Shelby County) remain in the race.

Colorado: State Sen. Angela Williams (D-Denver), a long shot for the Democratic Senatorial nomination, and particularly so after former Gov. John Hickenlooper ended his presidential campaign and joined the Senate race, announced yesterday she is discontinuing her statewide effort and will again seek re-election to the state Senate. Though Mr. Hickenlooper still has competition for the party nomination, it is clear that he is headed for a strong victory that will launch him into a difficult general election campaign with incumbent Sen. Cory Gardner (R).

Georgia: Gov. Brian Kemp (R) appointed Atlanta businesswoman Kelly Loeffler to replace Sen. Johnny Isakson (R) who will resign his seat at year's end due to health problems. Ms. Loeffler, whose husband, Jeffrey Sprecher, is the founder and CEO of the Intercontinental Exchange and chairs the New York Stock Exchange, has never run for public office. She will serve the remainder of Sen. Isakson's term, which takes her through 2020.

It is presumed that Ms. Loeffler will be a candidate in the special election where she may well face Rep. Doug Collins (R-Gainesville) and several others. Mr. Collins, who President Trump supported for the appointment, was leaving broad hints that he would run for the seat if Gov. Kemp did not appoint him.

North Carolina: Garland Tucker, the businessman who had already raised and spent \$1.7 million for his campaign, of which more than \$1.2 million was his own money, this week announced that he is withdrawing from the race. This gives Sen. Thom Tillis (R), who for a time looked to be in a tight contest with Tucker, a clear shot at re-nomination unless Rep. Mark Walker (R-Greensboro), whose district was collapsed in the state's new redistricting map, decides to enter the Senate race.

House

CA-50: California Rep. Duncan Hunter (R-Alpine; San Diego County) pleaded guilty to one count of violating campaign finance law and will at some point resign from the US House. This came as former Rep. Darrell Issa (R), who is a candidate in the 50th District, released his internal Public Opinion Strategies survey (11/18-20; 400 CA-50 likely jungle primary voters) that found the Congressman languishing in fourth place with just 9% support and an inverted favorability index of 30:55% positive to negative.

The poll also found Democrat Ammar Campa-Najjar, the 2018 candidate who held Mr. Hunter to a 52-48% win, leading the field with 31% and Mr. Issa trailing with 21%, just ahead of former San Diego City Councilman and radio talk show host Carl DeMaio, who had 19%. Absent Hunter being in the race, the numbers show his support dividing relatively evenly between Issa and DeMaio. In this configuration, Campa-Najjar still receives 31%, while Issa increases to 25% and DeMaio to 22 percent.

GA-14: Another surprise retirement announcement came from northwest Georgia yesterday as six-term Rep. Tom Graves (R-Ranger/Rome) announced via social media that he will not seek re-election next year. With a 76% victory percentage in 2018 coming from one of the strongest Trump districts in the nation (Trump '16: 75-22%), Rep. Graves was in strong political position but has decided he wants to return to family concerns instead of continuing his political career.

We can expect a multi-candidate Republican primary that will lead to a run-off to determine the Republican party nominee. The Georgia primary is May 19th with a July 21st run-off date. The Georgia candidate filing deadline is March 6th, so potential candidates have time to prepare for what should be a tough open seat GOP nomination campaign.

KS-2: Scandal rumors have been swirling around freshman Kansas Rep. Steve Watkins (R-Topeka) almost since the time he assumed office, and now one looks to be coming to fruition. Accusations of voter fraud are now being directed at Mr. Watkins because it has been discovered that his original 2018 congressional filing lists a UPS Store as his voting address instead of a residence, the latter of which is required under Kansas election law.

Regardless of how the voter registration issue is resolved, Rep. Watkins can expect a fight for re-nomination. State Treasurer Jake LaTurner (R) is already an announced candidate, running here with the encouragement of former Gov. Jeff Colyer (R) and other key party leaders.

MO-2: Rep. Ann Wagner (R-Ballwin; St. Louis County) had a closer than expected election result in 2018 (51-47%), so significant Democratic challengers coming forward for the next campaign is expected. Cort VanOstran, the 2018 party nominee who climbed to within four points of the incumbent, has already said he will not return for a re-match. St. Sen. Jill Schupp (D-Ladue), on the other hand, launched a challenge campaign against Rep. Wagner and quickly amassed over \$200,000 for her campaign treasury in the first two days of her candidacy.

North Carolina: Ruling on a Democratic lawsuit, the North Carolina state three judge panel, which bounced the previous map as a political gerrymander, unanimously upheld the latest plan the Republican controlled legislature passed. Under the map the GOP is likely to win eight of the state's 13 CDs, which would still mean a net two seat gain for

Democrats who believe they should have more.

The quick ruling means the candidate filing deadline is restored for December 20th, and the March 3rd primary will proceed in the new districts as scheduled. The two Republicans likely left without a winnable district are Reps. George Holding (R-Raleigh) and Mark Walker (R-Greensboro).

WA-10: Four-term Washington Rep. Denny Heck (D-Olympia) announced mid-week that he will not seek re-election, expressing weariness over the continuous congressional investigations while renewing his criticism of President Trump.

The 10th District is reliably Democratic and will be particularly so in 2020 since President Trump will not contest the state. With Rep. Tom Graves (R-GA) and Mr. Heck retiring, and once Rep. Duncan Hunter (R-CA) resigns after pleading guilty to one count of campaign finance violations, 35 seats will be open for the coming election, 24 from the Republican side and eleven from their Democratic counterparts.

WI-7: The candidates are now set for the February 18th special primary election to begin the process of replacing resigned Rep. Sean Duffy (R-Wausau). For the Republicans, as expected, state Sen. Tom Tiffany (R-Menomonee) and US Army Purple Heart veteran and former Senate staff member Jason Church will vie for the party nomination. The Democrats will see Wausau School Board member Tricia Zunker battle businessman Lawrence Dale. The two primary winners will advance to the special general election on May 12th. The eventual Republican nominee is favored to hold the seat.

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