



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.

July 26, 2019

CFPB seeks comment on QM patch

Yesterday the Consumer Financial Protection Bureau (CFPB) published an [Advance Notice of Proposed Rulemaking \(ANPR\)](#) to seek comment about whether and how it should allow the expiration of the temporary qualified mortgage (QM) provision that applies to certain mortgages eligible for GSE purchase under the CFPB's Ability to Repay/Qualified Mortgage (ATR/QM) rule. (The CFPB calls this the "GSE patch," but since we've all been calling it the QM patch, we're sticking with that.) The ANPR asks for comments on specific possible amendments to the rule, including whether and how Regulation Z's definition of a qualified mortgage should be revised. A CFPB study released earlier this year found that lenders generally offered QM patch loans even when they could have made a loan that qualified under the rule. CFPB Director Kathy Kraninger said that "readjusting away from the Patch can facilitate a more transparent, level playing field that ultimately benefits consumers." Once published in the Federal Register, the ANPR will be open for comment for 45 days.

Credit reports may benefit from broader data, but not "fringe data"

Witnesses [appeared before the House Financial Services on Financial Technology yesterday](#) to talk about whether and how alternative data points can improve consumers' access to credit, especially for the unbanked, underbanked, and those with "thin" credit files. Witnesses agreed that certain types of alternative data have great potential to help underserved consumers, with sufficient protections. Dave Girouard, founder and CEO of the AI lending platform Upstart, described how his company uses consumer-supplied data

to expand and improve consumers' access to credit. The most valuable alternative data is financial, witnesses said; claims that "fringe data" gleaned from social media and other behavioral sources have probably been oversold, and may reinforce disparate impacts. The hearing sought to gather information for two [draft bills](#) that would allow consumers to furnish rent and utility payment records as part of their credit reports, and would create a pilot program under the National Housing Act for providing additional credit information to mortgagors and prospective mortgagors.

If pot is legal, where does the money go?

The Senate Banking Committee [heard testimony on Tuesday](#) about why and which legislative changes are needed to provide banking services to a growing legal cannabis industry. Senators Cory Gardner (R-CO) and Jeff Merkley (D-OR) discussed their bill [S. 1200](#), the Secure and Fair Enforcement (SAFE) Banking Act of 2019; its companion, [H.R. 1595](#), was [approved by the House Financial Services Committee](#) in June. Gardner told the Committee that the disconnect between state and federal laws governing the cannabis industry had become "intolerable . . . and untenable," and described the dangers of the giant cash economy around it. While broader legislation is necessary to address discrepancies between state and federal laws, Senator Merkley said, denying the industry access to the banking system is an invitation to money laundering, robbery, tax evasion, and more. Committee Chairman Mike Crapo's state, Idaho, is one of three (with Nebraska and South Dakota) that allows no form of legal cannabis use.

BB&T, SunTrust pledge continued commitment to community banking

The CEOs of BB&T and SunTrust [told the House Financial Services Committee on Wednesday](#) that their planned merger will improve the combined bank's ability to serve its customers by boosting investments in better technology, better products, and better services. BB&T Chairman & CEO Kelly S. King emphasized the need to provide "real-time satisfaction" to consumers who have a wide range of choices among financial services providers, while making sure that customers in rural areas have that access as well. SunTrust Chairman & CEO William H. Rogers pointed to cyberthreats as the greatest current challenges to the banking industry, and said that the merged bank, Truist, will have the scale needed to address those threats effectively. North Carolina Commissioner of Banks Ray Grace has approved the merger, which awaits final approval from the Federal Reserve Board and the FDIC.

Waters, Cortez Masto introduce FHA Foreclosure Prevention Act

House Financial Services Chairwoman Maxine Waters (D-CA) and Senator Catherine Cortez Masto (D-NV) introduced [a bill](#) this week that would require the Department of Housing and Urban Development to conduct oversight of FHA mortgage servicers to ensure compliance with loss mitigation requirements. The bill would also create a complaint and appeals process for borrowers who believe they have been treated unfairly in violation of the FHA's servicing requirements. Before initiating foreclosure proceedings, servicers would be required to provide borrowers with the results of a loss mitigation review.

Senators ask SEC not to include personal investor information in the CAT database

Seven Republican Senators led by Sen. John Kennedy (R-LA) [wrote to SEC Chairman Jay Clayton](#) this week to urge the SEC to prohibit the collection of any personally identifying information (PII) by the Consolidated Audit Trail (CAT) database. "While we support the SEC using the CAT to conduct market surveillance using non-retail investor information, we are worried that including the PII of every American with money in the stock market will create an easy target for China's cyber-attack initiatives," they wrote; the SEC should "put the security of the American people first."

Federal regulators offer greater transparency on BSA/AML supervision

The Federal Reserve Board, FDIC, NCUA, OCC, and FinCEN issued a [joint three-page statement](#) this week that describes the agencies' practices for evaluating a bank's money laundering/terrorist financing risk profile, how examiners scope and plan their Bank Secrecy Act/anti-money laundering examinations, and how they make initial assessments of a bank's BSA/AML compliance program. The statement makes no new requirements, but notes that risk-based compliance programs make it easier for banks to allocate compliance resources commensurate with risk.

Regulators release public sections of big banks' "living wills," extend deadline for next filing

This week the Federal Reserve Board and FDIC [released the public sections](#) of the eight largest domestic banks' resolution plans ("living wills"), which had been submitted by July 1. The agencies are reviewing both the public and the confidential sections of the living wills submitted by Bank of America, Bank of New York Mellon, Citigroup, Goldman Sachs, JPMorgan Chase, Morgan Stanley, State Street Corporation, and Wells Fargo. Today, the FDIC and Federal Reserve [announced](#) that the next filing deadline for these resolution

plans will be delayed until July 1, 2021, as changes proposed to the resolution plan rule in April 2019 are still pending.

Equifax to pay \$575 million, Facebook to pay \$100 million for misuse of consumer data

Two big settlements this week highlighted the dangers of misusing or failing to protect consumer data. On Tuesday, the [FTC, CFPB, and Maryland Attorney General announced](#) that Equifax will pay at least \$575 million, and possibly as much as \$700 million, for failing to secure consumer data against a 2017 breach that affected approximately 147 million people. Equifax will pay at least \$300 million to provide affected consumers with credit monitoring services, as well as \$175 million in civil penalties to the states and \$100 million in civil penalties to the CFPB. On Wednesday, the [SEC announced](#) that Facebook would pay \$100 million to settle charges that it made misleading disclosures about the risk of misuse of Facebook user data.

IRS starts collections on virtual currency transactions

The Internal Revenue Service [announced today](#) that it has begun sending letters to taxpayers about possible failures to report revenue from virtual currency transactions. IRS Commissioner Chuck Rettig said, "The IRS is expanding our efforts involving virtual currency, including increased use of data analytics." More than 10,000 taxpayers will receive letters asking them to review their tax filings and amend them where necessary, paying back taxes with interest and penalties. The IRS considers virtual currency to be property for tax purposes.

Confirmations, Nominations, Departures

- The Senate Finance Committee [held a nomination hearing Wednesday](#) on the nominations of Brent McIntosh to serve Under Secretary of the Treasury, Brian Callanan to be General Counsel of the Treasury, and Brian McGuire to be Deputy Under Secretary of the Treasury.
- The President announced his intention to nominate David Carey Woll, Jr. as Assistant Secretary of Housing and Urban Development (Community Planning and Development); Woll is currently Principal Assistant Secretary of HUD's Office of Community Planning and Development.
- The [SEC named Emily Westerberg Russell](#) as Chief Counsel of its Division of Trading and Markets.
- [Rep. Paul Mitchell \(R-MI\)](#) announced that he will not seek reelection to Congress, but will retire at the end of next year, after serving two terms.

- [Rep. Pete Olson \(R-TX\)](#) announced that he will retire from Congress after he finishes his sixth term next year.
- [Rep. Martha Roby \(R-AL\)](#), serving her 5th term in Congress, also announced that she will not seek reelection.

Coming Up in Washington

- The House of Representatives is in recess until **September 9**. The Senate has work scheduled through Thursday, August 1.
- July 29 at 9:30 a.m. The SEC's [Fixed Income Market Structure Advisory Committee will meet](#) to discuss a draft recommendation for investor education regarding retail notes; a draft recommendation on certain principal transactions with advisory clients; the content and timeliness of municipal issuer disclosures; and the need for future modifications to credit ratings. The meeting will be [webcast live](#).
- July 30 at 9:00 a.m. The FDIC's [Advisory Committee on Community Banking will meet](#) to discuss local banking conditions and get updates on supervision modernization, financial education efforts, de novo applications, and collaboration efforts with the Small Business Administration. The meeting will be [webcast live](#).
- July 30 at 10:00 a.m. Senate Banking Committee holds a hearing on "[Examining Regulatory Frameworks for Digital Currencies and Blockchain](#)."
- July 30 at 10:15 a.m. Senate Finance Committee holds a [hearing to examine the US-Mexico-Canada Agreement](#).

The Ellis Insight

Jim Ellis reports on political news

President

California Poll: International online polling firm YouGov, surveying for CBS News, is projecting a very tight California race in their latest poll (7/9-18; 1,514 CA likely Democratic primary voters from a pool of 8,760 CA registered voters). The YouGov/CBS results find former Vice President Joe Biden holding just a one-point lead over home state Sen. Kamala Harris, 24-23%, with Sens. Elizabeth Warren (D-MA) and Bernie Sanders (I-VT) posting 19 and 16%, respectively. If this were the final result, all four candidates would qualify to split the state's treasure trove of 416 first ballot delegate votes.

Colorado Poll: Public Policy Polling conducted a survey (7/12-14; 561 CO likely Democratic primary voters) of the Centennial State Democratic electorate and finds three of the five top presidential candidates securely in double-digits.

The results show ex-Vice President Joe Biden topping the field with 22%, just three points ahead of Sen. Elizabeth Warren (D-MA) while Sen. Bernie Sanders (I-VT) records 15% support. Sen. Kamala Harris (D-CA) posts 9%, followed by both South Bend Mayor Pete Buttigieg and former Colorado Gov. John Hickenlooper each with 7 percent. Colorado Sen. Michael Bennet secures only 5% preference from his home state electorate.

Morning Consult Poll: The new Morning Consult large-sample national poll (7/15-21; 17,285 US registered voters; online methodology from pools of 5,000 qualified voters per day) finds former Vice President Joe Biden returning to his pre-debate support level. The MC survey finds Mr. Biden leading with 33% as Sens. Bernie Sanders (I-VT), Elizabeth Warren (D-MA), and Kamala Harris (D-CA) all trail but record double-digit support, 18-14-13%, respectively.

Ohio Poll: Quinnipiac University released what may be the first poll of the Ohio electorate (7/17-22; 556 OH Democratic registered voters) in anticipation of this state's March 10th primary and sees former Vice President Joe Biden enjoying a healthy lead. Here, the former VP registers 31% support followed by Sens. Bernie Sanders (I-VT), Kamala Harris (D-CA), Elizabeth Warren (D-MA), and South Bend Mayor Pete Buttigieg who record 14, 14, 13, and 6% preference, respectively.

South Carolina Poll: Monmouth University (7/18-22; 405 SC likely Democratic primary voters) released a new state poll from the Palmetto State in testing the South Carolina electorate, site of the fourth nomination event scheduled for February 29th. Here, as we're seeing in many of the tested southern states, former Vice President Joe Biden posts a substantial advantage, leading 39-12-10-9-5% over Sens. Kamala Harris (D-CA), Bernie Sanders (I-VT), Elizabeth Warren (D-MA), and South Bend Mayor Pete Buttigieg.

YouGov Poll: Echoing the latest Morning Consult large-sample national poll (7/15-21; 17,285 US registered voters; online methodology from pools of 5,000 qualified voters per day) that posted former Vice President Joe Biden to a 33-18-14-13% advantage over Sens. Bernie Sanders (I-VT), Elizabeth Warren (D-MA), and Kamala Harris (D-CA), the new YouGov/The Economist survey (7/21-23; 600 likely Democratic primary voters) also finds the ex-VP leading in similar proportion.

The YouGov results project Mr. Biden to a 25-18-13-9% margin over his opponents who finish in a different order from what Morning Consult detected. In this survey, Sen. Warren is second with Sanders and Harris following. South Bend Mayor Pete Buttigieg finishes in mid-single digits in both polls.

Senate

Kansas: As expected, Kansas state Senate President Susan Wagle (R-Wichita) officially joined the growing open Senate Republican candidate field late this week.

Ms. Wagle, who first entered the state legislature in 1991 and served as Senate President since 2013, had been indicating she would become a statewide candidate when the legislature recessed. She joins recent candidates Kris Kobach, the former Secretary of State and gubernatorial nominee, and Kansas Turnpike Authority chairman and former Kansas City Chiefs football player Dave Lindstrom. State Treasurer Jake LaTurner announced his candidacy soon after Sen. Pat Roberts (R) made public his intention to retire. Former US Attorney Barry Grissom and ex-Rep. Nancy Boyda are the leading Democratic candidates.

Massachusetts: Author and CEO Steve Pemberton, whose story of his Foster care upbringing after being abandoned as a child became a best-selling book and movie, yesterday joined the Democratic Senate primary against incumbent Ed Markey. Already in the race was attorney and liberal activist Sharon Liss-Riordan. Mr. Pemberton appears to be a legitimate candidate, but the more crowded the primary field becomes, the easier it will be for Sen. Markey to win when the anti-incumbent vote is divided. The state primary is not until September 15, 2020, after a May 5th filing deadline.

New Hampshire: Former state House Speaker Bill O'Brien (R), who had been indicating that he would challenge Sen. Jeanne Shaheen (D) since early in the year, formally announced his candidacy this week. Mr. O'Brien served as Speaker during the 2011-12 legislative session. He is currently a software company president. Also in the Republican primary is retired Army Brigadier General Don Bolduc.

Texas: Last week, we reported that Sen. John Cornyn (R) saw another prospective Democratic opponent, Houston City Councilwoman Amanda Edwards, come forward to announce her Senate candidacy. This week, a veteran state legislator joined the field. Royce West (D) has represented Dallas in the state Senate since his first election in 1992.

In addition to Royce and Edwards, retired Army helicopter pilot and defeated congressional candidate M.J. Hegar (D) with former Houston Congressman and ex-gubernatorial nominee Chris Bell (D) comprise the remainder of the Democratic field. The winner of the March 3rd primary will attempt to deny Sen. Cornyn a fourth term.

House

FL-15: Freshman Rep. Ross Spano (R-Dover/Lakeland) has drawn one opponent while another exits for a different race. Freshman state Rep. Adam Hattersley (D-Hillsborough County) formally announced his congressional campaign yesterday, prompting candidate Andrew Learned to leave the congressional campaign to instead compete for Hattersley's open state House seat. Two minor candidates remain, but it is now likely that Messrs. Spano and Hattersley will battle for the congressional seat in the fall of 2020.

FL-16: Freshman state Rep. Margaret Good (D-Sarasota) defeated state Rep. James Buchanan (R-Sarasota) in the 2018 election to win her seat in the state House. Mr. Buchanan is the son of US Rep. Vern Buchanan (R-Sarasota), and now Ms. Good has announced that she will challenge the elder Buchanan next year. The 16th District has performed as a reliable Republican district in its basic form since the 1992 election. Rep. Buchanan turned back a strong challenge from Democratic candidate David Shapiro in the 2018 election with a 55-45% victory. Mr. Shapiro spent over \$2.5 million on the campaign.

FL-26: Former Congressman Carlos Curbelo (R-Miami), who lost his seat in November after serving two terms, clarified yesterday that he will not return for a 2020 re-match with freshman Rep. Debbie Murcasel-Powell (D-Miami). Instead, Mr. Curbelo confirmed that he is considering becoming a candidate in the Miami-Dade County Mayor's race. Without

Curbelo in the congressional field, Ms. Mucarsel-Powell is in much stronger position to win her first re-election campaign.

NV-4: The central Nevada 4th District, created in the 2011 redistricting plan to cover the northern Las Vegas area and stretch to through the central part of the state, will again be very active in the 2020 election cycle. Toward the end of the week, Nye County Commissioner Lee Blundo (R) joined the growing field of Republican candidates who will compete for the party nomination to challenge Rep. Steven Horsford (D-Las Vegas) next year. Five other Republicans, including former state Assemblyman Jim Marchant and 2014 Miss Nevada USA Lisa Song Sutton, are already in the race.

NY-9: One of the surprises from the 2018 primary season was New York Democratic challenger Adem Bunkeddeko's performance against then-six-term congressional veteran Yvette Clarke (D-Brooklyn). Rep. Clarke defeated Mr. Bunkeddeko, a Brooklyn Community Board Member, 53-47% after trailing for most of primary election night. This week, Mr. Bunkeddeko announced he will return for a re-match. But, he is not alone. With two minor candidates likely on the ballot, and Rep. Clarke not being caught by surprise this time, a 2020 primary challenge against her becomes considerably more difficult.

NY-27: Attorney and Fox News contributor Beth Parlato announced that she will join the Republican primary campaign against indicted Rep. Chris Collins (R-Clarence/Batavia). State Sen. Chris Jacobs (R-Hamburg) is already an announced candidate. Rep. Collins, who is scheduled to face his insider trading trial in February, says he will announce whether he will run for re-election before the end of this year.

SC-1: Katie Arrington, who lost what should be a safe Republican seat to freshman Rep. Joe Cunningham (D-Charleston) after surviving a life-threatening car accident soon after winning nomination, will not return for a 2020 re-match. On Thursday, it was announced that Ms. Arrington has been appointed as the Pentagon's Chief Information Security Officer, a position that re-locates her to the Washington, DC area. The major candidates in the congressional race, a contest that will certainly be a top national GOP challenger race, are state Rep. Nancy Mace (R-Charleston) and Beaufort County Councilman and entrepreneur Mike Covert.

TX-22: Texas Rep. Pete Olson (R-Sugar Land) announced late this week that he will not seek re-election to a seventh term next year thus yielding what will likely be a major open seat campaign. Though the district, covering parts of Ft. Bend, Brazoria, and Harris Counties and located south of Houston, has a Republican history, the region's changing demographics make the area much more politically competitive.

Democrat Sri Preston Kulkarni, who held Rep. Olson to a 51-46% victory in 2018 after spending more than \$1.5 million, announced months ago that he would run again. He has two minor Democratic opponents. We can now expect a large Republican field to form as the potential participants decide to make their moves in response to Mr. Olson's surprise announcement.

TN-9: Former Shelby County Democratic Party chairman and US Navy Reserve officer Corey Strong says he will challenge Tennessee Rep. Steve Cohen (D-Memphis). The Congressman has been an anomaly in this district. A 61% African American district, Mr. Cohen, who is white, won the seat in 2006 when the African Americans split their votes among too many candidates. That pattern continued in subsequent elections until Mr. Cohen solidified his support.

Now, however, he has drawn an African American opponent, and if the challenger can solidify the black vote behind him, this could become a serious campaign. The Tennessee primary isn't until August 6th, so this contest has much time to develop.

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