



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.

May 10, 2019

Waters, McHenry agree on flood insurance extension, pledge to work on reauthorization

House Financial Services Committee Chairwoman Maxine Waters (D-CA) and ranking member Patrick McHenry (R-NC) [announced yesterday](#) that they have introduced legislation to extend the National Flood Insurance Program (NFIP) to September 30, 2019. The NFIP is scheduled to expire on May 31. They said the extension would give Congress time "to reach bipartisan consensus on much-needed reforms," and added that they will "continue to work together" toward long-term bipartisan flood insurance reauthorization.

CFPB proposes rules on Fair Debt Collection Practices

The Consumer Financial Protection Bureau (CFPB) issued a [Notice of Proposed Rulemaking](#) on Tuesday to implement the Fair Debt Collection Practices Act (FDCPA), updating the rules to reflect changes in technology. The rule would limit debt collectors to no more than seven phone calls per week and would require debt collectors to wait at least a week after a conversation with the debtor before calling the debtor again. It would allow debt collectors to contact consumers by email or text message with no limits, but consumers could unsubscribe from these notices. Collectors would not be allowed to contact consumers via social media or through work email. The rules would apply primarily to third-party debt collectors, not to in-house creditors. Once published in the *Federal Register*, the proposal will be open for comment for 90 days.

House Financial Services approves five bills

In a markup that began on Wednesday and continued well into Thursday, the House Financial Services Committee considered and passed seven pieces of legislation:

- [H.R. 1988](#), the Protect Affordable Mortgages for Veterans Act of 2019, passed by voice vote. Introduced by Rep. David Scott (D-GA), it would make a group of VA loans eligible for securitization by Ginnie Mae.
- [H.R. 2409](#), the Expanding Access to Capital for Rural Job Creators Act, also passed by voice vote. Introduced by Reps. Cindy Axne (D-IA) and Alex Mooney (R-WV), it would direct the SEC to identify the unique and most serious challenges rural small businesses face in securing capital
- [H.R. 2514](#), the Coordinating Oversight, Upgrading and Innovating Technology, and Examiner Reform (COUNTER) Act, passed unanimously, 55-0. Sponsored by Reps. Emanuel Cleaver (D-MO) and Steve Stivers (R-OH), it would close loopholes in the Bank Secrecy Act and increase penalties for violations
- [H.R. 2515](#), the Whistleblower Protection Reform Act, passed by voice vote. Introduced by Reps. Al Green (D-TX) and Bill Huizenga (R-MI), it would amend Dodd-Frank to clarify that whistleblowers who report misconduct to their employers but not to the SEC also qualify for protection from retaliation.
- [H.R. 2534](#), the Insider Trading Prohibition Act, passed by voice vote as well. Introduced by Rep. Jim Himes (D-CT), it would create a clear definition of "insider trading" for the purposes of US securities law.

Waters announces task forces on financial technology, AI

This week's House Financial Services Committee markup also included votes on [resolutions to create two new task forces](#) within the House Financial Services Committee. The Task Force on Financial Technology, to be chaired by Rep. Stephen Lynch (D-MA), will examine fintech regulation, fintech lending, consumer applications of fintech and challenges to data privacy. The Task Force on Artificial Intelligence, to be chaired by Rep. Bill Foster (D-IL), will look at applications of machine learning in financial services and regulation, emerging risk management perspectives, the use of AI to combat fraud, and the implications of automation for jobs in financial services and throughout the economy.

Senate Banking, House Energy & Commerce discuss data privacy

Tuesday's Senate Banking Committee [hearing on privacy rights and data collection](#) sought to gather information on how the European Union's General Data Protection Regulation (GDPR) is actually working, and what lessons US policymakers can take from it as they develop a federal privacy framework. [Wednesday's House Energy and Commerce hearing](#) focused specifically on what the Federal Trade Commission is doing in this area, with all five commissioners testifying on the FTC's need for targeted rulemaking authority, the authority to seek civil money penalties for first offenders, and authority over common carriers and nonprofits. On both sides of the Hill, bipartisan consensus is emerging on the need to establish a federal privacy framework before

GDPR and the California Consumer Protection Act (CCPA) become the standards by default.

Crapo, Brown ask Facebook about cryptocurrency, data collection

Following up on Tuesday's hearing, Senate Banking Committee Chairman Mike Crapo (R-ID) and ranking member Senator Sherrod Brown (D-OH) [wrote to Facebook CEO Mark Zuckerberg today](#) to ask what the social network's plans are for developing its own cryptocurrency-based payment system, and what it plans to do with all the consumer financial information Facebook seems to have been collecting about its users. Specifically, the senators asked, "To the extent Facebook has received consumer financial information from a financial company, what does Facebook do with such information and how does Facebook safeguard the information?" They also asked whether Facebook collects any information about users' credit ratings, and whether it uses any of that information in a way that would violate the Fair Credit Reporting Act. Separately, Facebook [announced earlier this week](#) that while it would no longer require pre-approval for ads related to blockchain technology, cryptocurrency news or education events, it will ban all advertising promoting contracts for difference (CFDs), and will continue its ban on ads for initial coin offerings (ICOs) or binary options.

Clayton asks for more time to prosecute fraud, encourages FASB to review CECL

At a Senate Appropriations subcommittee hearing on Wednesday, Securities and Exchange Commission Chairman Jay Clayton endorsed a bill introduced by Senators John Kennedy (R-LA) and Mark Warner (D-VA) that would extend the SEC's authority to seek disgorgement in cases of fraud and create a new authority to require restitution for violations of the securities laws. Clayton said that this bill would address the limitations identified by the Supreme Court in its *Kokesh* ruling, which set a five-year deadline on the SEC's disgorgement powers. "A cutoff of five years rewards a well-concealed fraud," he said. "I don't like that." In response to a question from Senator Chris Coons (D-DE), the subcommittee's ranking member, Clayton said he had no authority to intervene in the Federal Accounting Standards Board's rulemaking, but has encouraged FASB to carefully review the industry's concerns about its current expected credit loss (CECL) standard, and consider ways to take bank size into account when implementing the rule.

Waters asks Federal Reserve, FDIC to delay approval of BB&T-SunTrust merger

In [a letter to Federal Reserve Board Chairman Jerome Powell and FDIC Chairman Jelena McWilliams](#) this week, HFSC Chairwoman Maxine Waters expressed concerns about the

proposed merger of BB&T with SunTrust, and told the agencies to hold additional public hearings to get feedback from customers beyond the banks' headquarters states of North Carolina and Georgia. Waters noted that SunTrust provides a wide range of banking services in ten southern states and the District of Columbia, while BB&T has branches in 15 states and the District of Columbia as well as several national businesses. "Two public hearings are insufficient for the agencies to fully understand what the ramifications will be for millions of Americans," Waters wrote. She added that the proposed merger warrants particular scrutiny "given the rubber-stamping bank mergers receive from regulators," and said the Committee would hold its own public hearings on the merger.

Senators want reporting on opportunity zones

Senators Cory Booker (D-NJ), Tim Scott (R-SC), Todd Young (R-IN), and Maggie Hassan (D-NH) have introduced a bill to require the Secretary of the Treasury to collect and report on data about the opportunity zone tax incentives created by the 2017 tax reform legislation. [S. 1344](#) "will restore and strengthen transparency measures to ensure Opportunity Zones lives up to its original promise and delivers real impact to those who need it most," said Senator Booker, while Senator Scott said the data is necessary to measure the success of the initiative.

Sanders, Ocasio-Cortez propose "Loan Shark Prevention Act" to cap interest rates

Senator Bernie Sanders (I-VT) and Rep. Alexandria Ocasio-Cortez (D-NY) have introduced a bill to set a federal interest rate limit of 15% nationwide, with states empowered to set rates lower if they choose. The "[Loan Shark Prevention Act](#)" would give the Federal Reserve the authority to raise the interest rate cap if necessary to preserve safety and soundness, in the same way the National Credit Union Administration (NCUA) has that authority under the Federal Credit Union Act, which caps credit union loans at 15%. Sanders and Ocasio-Cortez noted that the Senate voted 74-19 to pass a 14% federal usury limit in 1991, when it was proposed by Senators D'Amato, Lieberman, Specter, and Conrad.

FHA proposes new lender certification requirements

The Federal Housing Administration is [proposing revisions](#) to its annual lender-level certifications and its Addendum to Uniform Residential Loan Application (Form 92900-A) in an effort to give lenders and servicers greater clarity about the agency's compliance requirements. The FHA is also revising its "defect taxonomy" to provide more information about types of defects and the weight the FHA gives each type. FHA Commissioner Brian

Montgomery said they expect the revisions to “encourage more lender participation in FHA business, thus increasing competition in the market and resulting in greater choices for borrowers.”

SEC proposes changes to “accelerated filer” designations

Yesterday the Securities and Exchange Commission voted to propose [amendments to its definitions of “accelerated filer” and “large accelerated filer.”](#) Under the proposal, reporting companies with less than \$100 million in revenues would not have to obtain an attestation of their internal control over financial reporting (ICFR) from an independent outside auditor. SEC Chairman Jay Clayton said that investors in lower-revenue companies “will benefit from more tailored control requirements.” The proposal is open for comment for 60 days after its publication in the *Federal Register*.

Confirmations, Nominations, Departures

- Democrats on the House Financial Services Committee [elected Rep. Michael San Nicolas \(D-GU\) to serve as Vice Chair.](#)
- The Senate confirmed the nominations of Kimberly A. Reed to serve as President and Spencer Bachus III and Judith DelZoppo Pryor to serve as board members of the Export-Import Bank.
- The New York State Department of Financial Services has named [Katherine A. Lemire as Executive Deputy Superintendent](#) of the Department's new Consumer Protection and Financial Enforcement Division. The new division combines the former divisions of Enforcement and Financial Frauds and Consumer Protection.

Next Week in Washington

- May 14 at 10:15 a.m. Senate Finance Committee holds a [hearing to examine challenges in the retirement system.](#)
- May 15 at 9:30 a.m. Senate Banking Committee holds an [oversight hearing to examine financial regulators.](#)
- May 15 at 10:00 a.m. Senate Appropriations Subcommittee on Financial Services and General Government holds a hearing to examine proposed budget estimates and justification for fiscal year 2020 for the Department of the Treasury.
- May 15 at 10:00 a.m. House Financial Services Subcommittee on Investor Protection, Entrepreneurship and Capital Markets holds a hearing on [“Promoting Economic Growth: A Review of Proposals to Strengthen the Rights and Protections of Workers.”](#)

- May 15 at 2:00 p.m. House Financial Services Subcommittee on National Security, International Development and Monetary Policy holds a hearing on [“Assessing the Use of Sanctions in Addressing National Security.”](#)
- May 15 at 2:30 p.m. Senate Small Business and Entrepreneurship Committee holds [a hearing to examine reauthorization of the Small Business Administration's innovation programs.](#)
- May 16 at 10:00 a.m. House Financial Services Committee holds a hearing on [“Oversight of the Prudential Regulators: Ensuring the Safety, Soundness, and Accountability of Megabanks and Other Depository Institutions.”](#)
- May 16 at 2:00 p.m. House Committee on Oversight and Reform holds a hearing on [“CFPB's Role in Empowering Predatory Lenders: Examining the Proposed Repeal of the Payday Lending Rule.”](#)

The Ellis Insight

Jim Ellis reports on political news

President

Mayor Bill de Blasio: Rumors were circulating early this week that New York City Mayor Bill de Blasio was going to announce his presidential campaign. But that did not happen. Mr. de Blasio was quoted as saying, “you can't have an announcement before there's a decision.”

Rep. Tulsi Gabbard: The first cross-party endorsement has already been made for the 2020 election, and it goes to Hawaii Rep. Tulsi Gabbard. Former presidential candidate and veteran Republican Congressman Ron Paul (R-TX) has publicly endorsed Ms. Gabbard saying she is “by far the very, very best...” It is unclear how much this endorsement will help her in Democratic primaries, but it certainly demonstrates an attempt to project a wide appeal.

Indiana: A small sample We Ask America poll was conducted among selected likely Indiana Democratic primary voters (4/29-5/5; 280 likely Dem primary voters) and the results found former Vice President Joe Biden leading, but the margin was closer than in most other polled states. The WAA data finds the ex-VP with 33% support compared to Sen. Bernie Sanders' (I-VT) 23%, and South Bend Mayor Pete Buttigieg who posted 20%.

Maryland: As rumors continue that Maryland Gov. Larry Hogan may launch a Republican primary challenge to President Trump, Gonzales Research, Marketing & Strategy, a Maryland-based company, polled the GOP electorate (4/29-4/4; 203 MD

likely primary voters). Though the sample size is very small, the President's margin is very large. The results find Mr. Trump holding a 68-24% advantage over Gov. Hogan in the latter man's home state.

Massachusetts: In an effort to deny former Massachusetts Governor Bill Weld some home state delegates, the MA Republican Party adopted a new rule that changes Massachusetts into a winner-take-all state. The Trump campaign wants a unanimous vote at the convention, and Massachusetts making the move to winner-take-all status makes such a goal all the more achievable.

New Hampshire: In early May, we've seen two pollsters survey the New Hampshire Democratic electorate and arrive at very diverse results. As we've previously reported, the Fireside Strategies/Optima poll (551 respondents) found former Vice President Joe Biden opening up a strong 34-16-10% lead over Sen. Bernie Sanders (I-VT) and South Bend Mayor Pete Buttigieg.

But, Change Research (864 respondents) countered with data finding Sen. Sanders holding a 30-26-12% margin over Biden and Buttigieg, respectively. Now, Monmouth University reports its findings of their May 2-7 poll with 376 likely Democratic primary voters. They side with Fireside, as the numbers project Mr. Biden to be holding a 36-18-9% advantage over Sanders and Buttigieg, respectively.

Senate

Alabama: US Rep. Mo Brooks (R-Huntsville), who ran for the Senate in the 2017 special election and placed third in the field of candidates, has now made clear his plans regarding the 2020 Senate campaign. In a radio interview, Rep. Brooks definitively declared that he will not be a 2020 statewide candidate. This means Rep. Bradley Byrne (R-Mobile), state Auditor Jim Zeigler, state Rep. Arnold Mooney (R-Indian Springs Valley), former Auburn University head football coach Tommy Tuberville, and possibly Secretary of State John Merrill (R) are the major candidates vying to challenge first-term incumbent Doug Jones (D).

Additionally, former US Senator and Attorney General Jeff Sessions (R) is re-emerging. Originally stating that he wanted to get away to the Alabama woods for a while when asked if he would consider entering the 2020 Senate primary, Mr. Sessions may now be issuing different signals. This week, he responded that he is "interested in the issues" when asked about the Senate race, prompting some to surmise that Mr. Sessions has not necessarily ruled out becoming a candidate.

Colorado: Former state House Majority Leader Alice Madden (D) announced that she will enter the crowded Democratic US Senate primary. Her move means there are now 12 announced candidates vying for the opportunity of challenging first-term Republican Senator Cory Gardner in the general election.

Among the dozen, however, no one has ever won a statewide race. The most well-known of the group are former state House Speaker and defeated US House and Senate candidate Andrew Romanoff, ex-US Ambassador Dan Baer who briefly entered a 2018 House campaign, former appointed US Attorney John Walsh, and ex-state Senator and defeated gubernatorial candidate Mike Johnston.

Georgia: We remember Democrat Jon Ossoff who raised a record amount of money for his 2017 special election in Georgia's 6th District, a race he lost to Republican Karen Handel. Though winning the special election and overcoming his \$31.6 million treasury, Ms. Handel could not hold the seat in the regular election, losing a one-percentage point result to current Rep. Lucy McBath (D-Marietta).

Now Mr. Ossoff is toying with another candidacy, but this time it's for the US Senate. Ossoff confirmed he is considering challenging Sen. David Perdue (R) now that 2018 gubernatorial nominee Stacey Abrams (D) has decided not to run for the Senate. Already in the Democratic primary is Columbus former Mayor Teresa Tomlinson and several minor candidates.

North Carolina: Former CEO and conservative activist Garland Tucker announced that he will enter the Republican Senate primary against first-term Sen. Thom Tillis (R). Rumors of a primary challenge became rampant when Sen. Tillis publicly began to oppose President Trump's state of emergency action regarding the country's southern border. Sen. Tillis later supported the idea, but he obviously caused himself long-lasting damage with the base Trump supporters in the NC GOP.

Wyoming: Four-term Senator Mike Enzi (R) announced on Saturday that he will not seek re-election next year. This becomes the fourth open Senate seat of the 2020 election cycle, three of which are Republican-held. Most of the action will come in the Republican primary from one of the GOP's best states. At-large Rep. Liz Cheney (R-Wilson) is the name most often mentioned as a possible candidate. Former Gov. Matt Mead (R) is also a possibility, as well as several statewide office holders. At the

end of the week, it emerged that former Rep. Cynthia Lummis (R) is also reported to be considering entering the Senate campaign.

House

CA-10: Ex-Rep. Jeff Denham (R-CA), who served four terms in the House, just accepted a position in Washington and said this week that he is ruling out any re-match campaign for the US House. Last November, Mr. Denham lost to now-freshman Rep. Josh Harder (D-Turlock/ Modesto) on a 52-48% count. Three Republicans have already announced their candidacies to oppose Rep. Harder, including former Turlock City Councilman Ted Howze who entered the race against Mr. Denham last year and received 15% of the jungle primary vote in an eight-person candidate field.

FL-7: Though sophomore Rep. Stephanie Murphy (D-Winter Park) has already shown electoral strength, she is drawing a crowd of opponents for her next re-election. This week, attorney and former congressional candidate Vennia Francois announced her candidacy, joining businessman and National Guardsman Thomas Delia, anti-human trafficking advocate Jan Edwards, and college student Armani Salado. It is unclear if any of these can mount a credible challenge, but the level of early activity here is significant.

GA-13: Former Cobb County Democratic Party chairman Michael Owens announced that he will again challenge Rep. David Scott (D-Atlanta) for re-nomination next year. Accusing Mr. Scott of straying from the party on too many key issues and supporting Republican candidates for certain races, Mr. Owens said he is again ready to forge a challenge to the nine-term Congressman. The first time the two faced each other occurred in a 2014 primary election. Then, Rep. Scott thrashed Owens 82-18%, so the Congressman obviously begins this new campaign as a prohibitive favorite.

IA-2: Rep. David Loebsack's (D-Iowa City) early retirement announcement obviously caught a great many southeastern Iowa politicians by surprise because almost a month after his creating an open competitive seat in the 2020 election, no one in either party had come forward to declare a candidacy. That has now changed. Osceola Mayor Thomas Kedley (R) officially entered the Republican congressional primary this week, and we assume many more candidates in both parties will be coming forward to run.

IA-3: Former Rep. David Young (R), who lost his congressional seat to Democrat Cindy Axne (D-West Des Moines) in November, said yesterday that he will return for a re-match. Other defeated Republican members are considering comebacks, but Mr. Young is the first to make his candidacy official. The two battled to a two-point decision, with Ms. Axne unseating Mr. Young, 49-47%, a difference of 7,709 votes of more than 360,000 cast.

NC-9: Public Policy Polling went into the field to test the Republican special election candidates two weeks before the May 14th primary vote. The survey (4/29-30; 592 NC-9 likely GOP primary voters) finds state Senator Dan Bishop (R-Charlotte) positioned with a chance not only to finish first in the field of ten candidates but potentially exceeding the 30% threshold to win the party nomination outright. The poll totals show Sen. Bishop attracting 31% support with his next closest rival, Union County Supervisor Stony Rushing, garnering 17%. Realtor Leigh Brown, who the national Realtors PAC is spending over \$1.2 million in a support independent expenditure operation, could be the wild card. Sitting at 6%, the outside resources could be enough to push her into second place while denying Sen. Bishop the plurality victory.

If a run-off is necessary, the vote will be scheduled for September 10th. If the Republicans nominate a candidate on May 14th, the special general then occupies the 9/10 date. Otherwise, the general will be held November 5th. Democrat Dan McCready is unopposed for the party nomination, so he will automatically advance into the special general. The seat is vacant because voter fraud allegations kept the 2018 election result from being certified.

Ohio Redistricting: A federal three-judge panel struck down the Ohio congressional district boundaries, ruling that the map is a political gerrymander. The Buckeye State now joins a long list of places dealing with similar decisions that have already been rendered in North Carolina, Pennsylvania, Michigan, Maryland, Virginia, and Wisconsin. The real action, however, is before the US Supreme Court, where potentially definitive binding rulings on the North Carolina and Maryland cases could remand all of the pending cases with clearer direction as to what constitutes gerrymandering. The high court decisions are expected before June ends.

Governor

Louisiana: JMC Analytics, a regular pollster of the Louisiana electorate, just reported the results of their new survey (4/25-27 & 29; 650 LA registered voters) for the upcoming Governor's election. According to the JMC data, the October 12th jungle primary finds Gov. John Bel Edwards (D) leading US Rep. Ralph Abraham (R-Alto/Monroe) and developer Eddie Rispone (R), 38-23-7%. In tested general election run-offs, Gov. Edwards would top Rep. Abraham by a slight 40-36% count, while his advantage against Rispone would balloon to 41-28%.

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