



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 3, 2019

Tillis has a "long, long list" of regulatory actions for GAO to review, he says

At a [Senate Banking Committee hearing Tuesday](#) on about the difference between regulatory guidance and regulations, Senator Thom Tillis (R-NC) said Republican members would be asking the Government Accountability Office to review "a long, long list of other actions regulatory agencies have taken" in order to determine whether they inappropriately circumvented the Congressional Review Act. Committee Chairman Mike Crapo (R-ID) said that OMB's recent memorandum emphasizing the distinction between rulemaking and non-binding guidance was "a step in the right direction," but banking regulators need to provide more clarity about the applicability of guidance, and should not be using supervisory recommendations as *de facto* enforcement.

House subcommittee hears testimony on short-term lending

The House Financial Services Subcommittee on Consumer Protection and Financial Institutions held a [hearing Tuesday afternoon](#) as the beginning of its consideration of two bills to set federal limits on small-dollar lending. Chairman Gregory Meeks (D-NY)'s [discussion draft](#) would set a national maximum interest rate, while Rep. David Scott (D-GA)'s [H.R. 1285](#) seeks to improve access to traditional banking services through an interagency office set up for this purpose. Meeks said he had been "deeply disappointed" by the CFPB's decision to roll back its payday lending rule. Ranking member Rep. Blaine Luetkemeyer (R-MO) said these small-dollar loans are an important means of financial assistance for borrowers who need them, and excessive limits will push consumers toward riskier and unregulated products. Full Committee Chairwoman

Maxine Waters (D-CA) said that her views on these products have changed; she no longer believes they should be banned altogether, but sees how they can be helpful if appropriately regulated.

California privacy law should be a floor, not a ceiling, witnesses tell Senate Commerce

Senate Commerce Committee Chairman Roger Wicker (R-MS) has made a federal data privacy framework a priority in this Congress, and Committee hearings on the topic [continued this week with testimony from consumer advocates](#) and a representative of Ireland's Data Protection Commission. Data Protection Commissioner Helen Dixon told the Committee that her agency is pursuing 12 investigations of large US technology firms for violations of the EU's General Data Protection Regulation (GDPR), but that the GDPR's requirements are scaled to avoid excessive burdens on smaller businesses, and she is not aware of any businesses closing as a result of GDPR requirements. In fact, witnesses said, advertising changes made in response to GDPR have actually increased revenues for some companies. "The bottom line is that privacy is good for business," said Common Sense Media CEO Jim Steyer, who helped draft the California Consumer Privacy Act. Witnesses disagreed on the need for federal preemption, but said that the California law should be the floor a federal privacy framework.

Diversity is good for business

Rep. Joyce Beatty (D-OH), Chairwoman of the House Financial Services Subcommittee on Diversity and Inclusion, opened [Wednesday's hearing](#) by citing a McKinsey study that found corporations that emphasize ethnic and gender diversity outperform their peers in profitability. The hearing's witnesses discussed the reasons for this. Exelon's Chief Strategy Officer, William Von Hoene, said that the energy giant emphasized diversity not only in employment but in its vendor management as well, considering it essential that the corporation's supply chain reflect the composition of the communities it serves. Rick Guzzo of Mercer noted that diversity policies have direct effects on a company's reputation, access to talent, investor support, and business results. "Promoting diversity and inclusion is not just good business," said Subcommittee ranking member Rep. Ann Wagner (R-MO), "it's also the right thing to do."

Advocates want more data collection on race, gender

Limits imposed by the Equal Credit Opportunity Act (ECOA) on the collection of information about borrowers' race and gender actually make it harder to identify discriminatory practices, witnesses told the House Financial Services Subcommittee on

Oversight and Investigation this week. At a [hearing Wednesday on discrimination in the auto lending and auto insurance industries](#), representatives of the National Consumer Law Center and the Lawyers Committee for Civil Rights Under Law called for amendments to ECOA to allow data collection in these areas. It is not possible to make direct correlations between auto insurance premiums and race because no states ask drivers to self-identify their race or ethnicity; nevertheless, Rep. Rashida Tlaib (D-MI) said that excessively high auto insurance rates in her district have a disparate impact on non-white communities.

House Oversight Committee resumes work on postal reform

After approving a reform bill that never got a House vote in the last Congress, the House Committee on Oversight and Reform [heard testimony this week](#) on the financial condition of the US Postal Service, and Chairman Elijah Cummings (D-MD) vowed to continue work on a legislative solution to its insolvency. Rep. Mark Meadows (R-NC), a co-sponsor of last year's bipartisan reform agreement, expressed frustration with the Postal Service's delays in delivering a business plan. Postmaster General Megan J. Brennan promised to complete work on a ten-year plan by July, when the Committee will hold a hearing to discuss its contents. While the Committee's ranking member, Rep. Jim Jordan (R-OH), pointed to the privatization of mail services in other countries, neither side of the aisle showed much interest in pursuing privatization. Nor does the Committee want to reduce the universal service obligation, which requires mail service to all US addresses six days a week. Cummings said he also plans to hold a hearing on USPS security measures in the wake of explosive packages sent to Democratic leaders last year; Rep. Meadows said his own office had received notice of a suspicious package, and that it was critically important to address this as well.

House approves three financial literacy bills

The House of Representatives recognized Financial Literacy Month this week by passing three bills. [H.R. 1876](#), introduced by Rep. Josh Gottheimer (D-NJ), would create a Senior Investor Task Force within the Securities and Exchange Commission to identify challenges facing senior investors and recommend possible solutions. [H.Res. 327](#), introduced by Rep. Bill Foster (D-IL), expresses support for the federal financial regulators' work with the industry to place talented young women and minorities in internships and full-time positions in financial services, and support for the agencies' financial literacy work. [H.Res. 328](#), introduced by Rep. Sean Casten (D-IL), expresses support for FinCEN's work to support financial literacy and protections for the elderly.

Velázquez introduces bipartisan bill to stop GSE lobbying

Rep. Nydia Velázquez (D-NY), Rep. Barry Loudermilk (R-GA), Rep. Bill Foster (D-IL), and Rep. Trey Hollingsworth (R-IN) introduced the “Fannie Mae and Freddie Mac Lobbying Regulation Act of 2019” as [H.R. 2380](#) this week. As its title suggests, the bill would prohibit the GSEs from engaging in any activities that would need to be disclosed as lobbying while they remain in conservatorship. The Federal Housing Finance Agency has already issued a rule that prohibits lobbying, but Velázquez said that she had learned of senior officials' efforts to influence legislation, and she finds the rule's language unclear.

CFPB proposes HMDA changes

Yesterday the Consumer Financial Protection Bureau (CFPB) issued a [notice of proposed rulemaking](#) that would raise the thresholds for collecting and reporting data about closed-end mortgages and open-end lines of credit under the Home Mortgage Disclosure Act (HMDA). The Bureau [also asked for comment](#) on the costs and benefits of reporting certain data points under HMDA. The proposed HMDA changes would permanently increase the coverage threshold from 25 to either 50 or 100 closed-end mortgage loans, and would extend for another two years the temporary coverage threshold of 500 open-end lines of credit. After the temporary extension expires, the open-end threshold would be set at 200 lines of credit. Comments are due to the CFPB within 60 days of publication in the *Federal Register*.

OCC seeks comment on innovation pilots

The Office of the Comptroller of the Currency (OCC) published a request for comment Tuesday on the agency's [proposed Innovation Pilot Program](#). The program would allow OCC-supervised financial institutions to propose tests of innovative products, either directly or through third parties, individually or collaboratively. The OCC would provide regulatory input early in the testing process. “Supporting a financial system that innovates responsibly is central to the mission of the OCC,” Comptroller Joseph M. Otting said. Comments are due to pilotprogram@occ.treas.gov before June 14.

NY lawsuit against OCC fintech charter will continue

Judge Victor Marrero of the US District Court for the Southern District of New York ruled yesterday that the lawsuit filed by New York State Department of Financial Services against the Office of the Comptroller of the Currency over plans to issue a special-purpose fintech charter can continue. The NYDFS argues that the OCC's proposal to issue these charters would circumvent state authority over these businesses. Marrero dismissed one of the Department's three claims, but allowed the other two to continue, including an argument that the OCC lacks the authority to issue charters to non-

depository institutions. Linda A. Lacewell, Acting Superintendent of the NYSDFS, called it “a resounding triumph for consumers and the regulated banking industry.”

Confirmations, Nominations, Departures

- The Federal Housing Financial Agency (FHFA) named [Sheila M. Greenwood](#) as Director of External Relations, with oversight responsibility for the Office of Congressional Affairs and Communications. Greenwood was HUD Secretary Ben Carson’s first Chief of Staff, and previously served as Assistant Secretary of HUD for Congressional and Intergovernmental Relations. She was most recently a Policy Associate Director at the Consumer Financial Protection Bureau.
- President Trump appointed Paul Shmotolokh to serve as First Vice President of the Export-Import Bank of the United States. Meanwhile, Senate Majority Leader Mitch McConnell filed for cloture on the nominations of Kimberly A. Reed, Spencer Bachus III, and Judith DelZoppo Pryor to serve as President and Members of the Board of the Ex-Im Bank. If confirmed, they will constitute the first leadership quorum at the Ex-Im Bank since 2015.

Next Week in Washington

- May 6 at 9:30 a.m. The SEC’s Office of the Advocate for Small Business Capital Formation [hosts a roundtable](#) for small businesses and venture capital investors, who will discuss their successes and challenges in raising capital and investing outside traditional financing “hot spots.” The roundtable is open to the public and will stream live on the [SEC’s website](#).
- May 6 at 1:00 p.m. The SEC’s [Small Business Capital Formation Advisory Committee](#) holds its first meeting. The Committee will hear from Bill Hinman, Director of the Division of Corporation Finance, about the SEC’s capital formation initiatives, and will begin to outline next steps.
- May 7 at 10:00 a.m. Senate Committee on Banking, Housing, and Urban Affairs holds a [hearing to examine privacy rights and data collection in a digital economy](#). SD-538 Dirksen Senate Office Building.
- May 7 at 2:30 p.m. Senate Appropriations Subcommittee on Financial Services and General Government holds a hearing on the proposed FY 2020 budgets for the Federal Communications Commission and the Federal Trade Commission. SD-138 Dirksen Senate Office Building.
- May 8 at 10:00 a.m. House Financial Services Subcommittee on Housing, Community Development, and Insurance holds a hearing on “[A Review of the State of and Barriers to Minority Homeownership](#).” 2128 Rayburn House Office Building.
- May 8 at 10:00 a.m. Senate Appropriations Subcommittee on Financial Services and General Government holds a hearing on the proposed FY 2020 budgets of

the Commodity Futures Trading Commission and the Securities and Exchange Commission. SD-124 Dirksen Senate Office Building.

- May 8 at 10:30 a.m. House Committee on Energy and Commerce holds a hearing on "[Oversight of the Federal Trade Commission: Strengthening Protections for Americans' Privacy and Data Security](#)." 2123 Rayburn House Office Building.
- May 8 at 2:00 p.m. House Financial Services Committee [meets to mark up legislation](#); the markup is likely to continue to May 9. 2128 Rayburn House Office Building.
- May 8 at 2:30 p.m. Senate Special Committee on Aging holds a [hearing to examine the Older Americans Act](#), focusing on protecting and supporting seniors as they age. SD-562 Dirksen Senate Office Building.
- May 9 at 10:00 a.m. House Small Business Subcommittee on Innovation and Workforce Development holds a hearing on "[The Digital Ecosystem: New Paths to Entrepreneurship](#)." 2360 Rayburn House Office Building.
- May 9-10 The Federal Reserve System will hold its 11th biennial Community Development Research Conference, "[Renewing the Promise of the Middle Class](#)." Keynote speeches and plenary sessions will be live-streamed.

The Ellis Insight

Jim Ellis reports on political news

President

Sen. Michael Bennet: Somewhat surprisingly, Colorado Sen. Michael Bennet joined the Democratic presidential parade at the end of the week. Last month, Mr. Bennet confirmed his interest in becoming a national candidate but announced that he had prostate cancer. Now, after having the necessary surgery and claiming he has a clean bill of health, Sen. Bennet has joined the burgeoning field of candidates that is approaching the two-dozen mark in number.

CNN/Q-Poll: CNN (conducted by the SRSS research firm; 4/25-28; 1,007 US adults; 411 likely Democratic primary voters) and Quinnipiac University (4/26-29; 1,044 US registered voters; 419 self-identified Democrats and lean Democratic voters) released new national polls that find former Vice President Joe Biden received a major bump from his national candidacy announcement.

According to the pair of surveys, Mr. Biden has again surged to a clear lead for the Democratic nomination. But, the small 411-respondent CNN sample and Q-Poll's 419-person segment leaves a lot of room for polling error.

CNN's results find Mr. Biden claiming 39% of the Democratic vote, his largest vote share to date. Sen. Bernie Sanders (I-VT), who was neck-and-neck with Biden before the announcement, drops back to 15% in this poll. No other candidate reaches 10%,

with Sen. Elizabeth Warren (D-MA) in third place at 8%, South Bend (IN) Mayor Pete Buttigieg following closely with 7%, ex-Congressman Beto O'Rourke (D-TX) posting 6%, and California Sen. Kamala Harris recording 5% preference. All of the others fail to break 2%.

The Q-Poll finds Mr. Biden polling a similar 38% and Sen. Warren moving to second at 12%. Sen. Sanders drops to third with 11% preference, while Mayor Buttigieg is the only other contender reaching double-digits posting 10% support.

NH Poll: Though Vermont Sen. Bernie Sanders is from a neighboring state and has done well in the most recent New Hampshire primary, a new Suffolk University poll (4/25-28; 429 NH likely Democratic primary voters) finds former Vice President Joe Biden lurching out to a substantial 20-12-12% lead over Sanders and South Bend Mayor Pete Buttigieg in the first-in-the-nation-primary state. In fourth position is Massachusetts Sen. Elizabeth Warren who posts 8%, with Sen. Kamala Harris (D-CA) following at 6% support. Ex-Texas Rep. Beto O'Rourke and Sen. Cory Booker (D-NJ) are tied with 3% apiece.

Senate

Alabama: So far, most of the attention paid to who will oppose Sen. Doug Jones (D) has centered around former Alabama Supreme Court Chief Justice Roy Moore and members of the congressional delegation, naturally including announced candidate Bradley Byrne, the Mobile area Congressman. On Friday, Secretary of State John Merrill (R) came forward to declare his interest in becoming a candidate.

Mr. Merrill would be the second statewide contender. Just before the first of the year, state Auditor Jim Zeigler (R) declared that he was exploring the Senate race but has not shown much in the way of activity, since.

Georgia: While still not ruling out that she will join the 2020 presidential field, former Georgia gubernatorial nominee Stacey Abrams (D) said she will not run for the US Senate next year. She had been publicly considering a challenge race against first-term Sen. David Perdue (R) and promised a decision by the end of April. Now attention turns to former Columbus Mayor Teresa Tomlinson (D), who said she would run for the Senate if Ms. Abrams did not.

Iowa: The Democratic leadership's second choice to oppose Sen. Joni Ernst (R) has also said no. Earlier, former Governor and ex-US Agriculture Secretary Tom Vilsack (D) said he would not return to Iowa to launch a US Senate challenge. Once Mr. Vilsack made the decision not to run, the party leadership began attempting to convince freshman Rep. Cindy Axne (D-West Des Moines) to oppose Sen. Ernst. This week, Rep. Axne announced that she will seek re-election to the House. Currently, there are no officially announced Democrats in the Iowa Senate race.

New Jersey: 2018 candidate Hirsh Singh, who originally was in the 2nd Congressional District but lost the Republican primary, announced his intention to oppose Sen. Cory Booker (D) next year.

The Senate campaign will be a political suicide run for Singh, since Sen. Booker will be re-elected regardless of how his presidential campaign unfolds. But, in a way, his move to the Senate likely helps the Republicans clear the way in order to recruit a more credible consensus opponent to freshman Rep. Jeff Van Drew (D-Cape May). Additionally, healthcare business consultant Tricia Flanagan has also declared her intention to seek the Republican Senatorial nomination.

New Mexico: GBAO Strategy & Research conducted the first poll of the open seat Democratic primary (4/15-18; 600 NM likely Democratic primary voters) and finds Rep. Ben Ray Lujan (D-Nambe/ Santa Fe) jumping out to a huge 64-25% lead over just-announced Senate candidate Maggie Toulouse Oliver, the New Mexico Secretary of State.

Texas: This week, as expected, Rep. Joaquin Castro (D-San Antonio) announced that he will not enter the statewide Democratic primary to ultimately challenge Sen. John Cornyn (R) next year. That Mr. Castro arrived at this decision some time ago became evident by not attempting to build a statewide organization and his lack of raising sufficient funds to compete. The Castro decision means that 2018 congressional candidate and retired Army helicopter pilot M.J. Hegar (D), who lost to Rep. John Carter (R-Round Rock), 51-48% in November, becomes the clear early Democratic alternative to Sen. Cornyn.

House

CA-22: In March 2018, congressional nominee Andrew Janz (D), who raised over \$8 million for his losing congressional race against Rep. Devin Nunes (R-Tulare), indicated he was looking toward the Fresno Mayor's race instead of seeking a congressional rematch. Yesterday, Mr. Janz formally made the decision and announced his candidacy to oppose Mayor Lee Brand in this year's non-partisan campaign.

CA-39: Former state Assemblywoman Young Kim (R), like several other 2018 California Republican congressional candidates, was leading after the votes were counted on last November's election night. Yet, as the weeks of counting post-election ballots continued, the final result turned against her. Late this week, Ms. Kim announced that she will return next year for a rematch with freshman Rep. Gil Cisneros (D-Yorba Linda). Rep. Cisneros won the November election, 51.6 – 48.4% with a turnout of just over 244,000 voters. Hillary Clinton carried the 39th in 2016 by a 51-43% count.

GA-7: State Rep. Brenda Lopez (D-Norcross), who originally indicated she wouldn't run for Congress, has changed her mind and announced her candidacy. She becomes the sixth Democrat to enter the open seat race. The field includes 2018 nominee Carolyn Bourdeaux who lost the general election by a scant 419 votes, the

closest raw vote election in the country.

MA-6: Now that Rep. Seth Moulton (D-Salem) has announced for the presidency, and even though he says he may return to the congressional primary, several politicians are already beginning to make moves. Last week, we covered that Rep. Lori Ehrlich (D-Swampscott) announced her candidacy and will remain in the race even if Moulton returns.

Now, it's being reported that former Rep. John Tierney (D), the man Mr. Moulton defeated in the 2014 Democratic primary, might also have interest in launching a new congressional campaign. Others, including former state Sen. Barbara L'Italien (D), are also publicly confirming that they are considering forming candidacies.

MI-3: Five-term Michigan Rep. Justin Amash (R-Cascade Township/Grand Rapids) has been a thorn in the side of his party's leadership because of his intransigence over most issue positions that lead him to vote against virtually every bill. Now, he will have a Republican primary challenger, possibly his first of any substance since his 2014 campaign.

Iraq War veteran Tom Norton announced that he will oppose Rep. Amash for the GOP nomination. Assuming Norton can raise some early money to become credible, mounting a primary challenge here could catch some fire since the Congressman has alienated many in his own party.

MN-1: Another re-do campaign looks to be on tap in southern Minnesota. In one of three Democratic seats that flipped to the Republicans, and one of those was due solely to Pennsylvania redistricting, freshman Rep. Jim Hagedorn (R-Blue Earth/Rochester) nipped Democrat Dan Feehan by just 1,315 votes last November, a 50.1 – 49.7% victory margin. Yesterday, Mr. Feehan announced that he will return for a re-match next year.

NY-5: Marine Corps veteran Shaniyat Chowdhury (D), a strong supporter of Rep. Alexandria Ocasio-Cortez (D-Bronx) and her wing of the Democratic Party, announced that he will challenge 12-term Rep. Greg Meeks (D-Queens) in next year's June party primary election. The 5th District, 90% of which lies in Queens Borough with the remaining territory in Nassau County and centered around JFK International Airport, is solidly Democratic. Hillary Clinton attracted 86% of the vote here in 2016, for example.

NC-3: Early this week in eastern and coastal North Carolina, almost 69,000 voters cast ballots in the special congressional primary election. The eventual winner replaces the late Rep. Walter Jones (R-Farmville), who passed away in February.

In the field of 17 Republicans, state Rep. Greg Murphy (R-Greenville), taking advantage of a very strong performance in his home region, placed first with 22.5% of the vote. Because Rep. Murphy did not exceed the 30% threshold, he and

physician Joan Perry, who was backed by state and national pro-life groups, advance to a July 9th run-off election.

For the Democrats, former Greenville Mayor Allen Thomas easily won the Democratic primary over five opponents. He drew just over 50% of the vote, topping retired Marine Corps Colonel Richard Bew and New Bern Mayor Dana Outlaw by better than 2:1 respective margins. Mr. Thomas directly advances to the special general election on September 10th.

NC-11: Becoming the first candidate of the cycle to challenge four-term Rep. Mark Meadows (R-Skyland/Hendersonville), retired US Air Force officer Steve Woodsmall (D) announced that he will oppose the Freedom Caucus chairman next year. Rep. Meadows should be secure in his safely Republican western North Carolina district (Trump '16: 63-34%; Romney '12: 60-39%), so Mr. Woodsmall faces a difficult task in making major inroads. Quite possibly, a primary challenge in this district would be more competitive than a general election effort.

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