



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.

September 6, 2019

... aaaand we're back. How was your August? We are thankful that our offices in Melbourne and Jacksonville, among others, were spared the worst of Hurricane Dorian, but the hurricane season still has almost three months to run. Stay safe, everybody.

Treasury, HUD submit housing reform plans

Treasury Secretary Steven Mnuchin and Housing and Urban Development Secretary Ben Carson submitted two plans to the White House yesterday for ending the conservatorship of Fannie Mae and Freddie Mac, restructuring the government guarantees for housing loans, and protecting taxpayers from further liability. The [Treasury report](#) calls for almost 50 legislative changes to limit the government's role in the secondary market, enhance taxpayer protections, and encourage private-sector competition. "At the same time, reform should not and need not wait on Congress," the report said. The [HUD plan](#) would "refocus" the Federal Housing Administration on its "core mission of helping low- and moderate-income borrowers." Mnuchin, Carson, and Federal Housing Finance Administration Director Mark Calabria will appear before the Senate Banking Committee next Tuesday to discuss the plans. Senate Banking Committee Chairman Mike Crapo (R-ID) [said yesterday](#) that many of the Treasury plan's provisions corresponded to elements of his own proposal, and that he would prefer "to fix the housing finance system through legislation."

Federal Reserve proposes capital requirements for insurance companies that own banks

Today the Federal Reserve published a [long-awaited proposal](#) to create a capital framework for the eight insurance companies that own banks. Acknowledging that "the insurance and banking sectors do not share any common capital assessment methodology," the Fed issued a concept paper in June 2016 that proposed a Building

Block Approach (BBA) that would aggregate capital requirements across sectors to calculate a group-wide capital requirement. Today's proposal expands on this concept and recommends a mechanism for scaling capital measures based on probability of default (PD). The Fed also published a white paper describing different scaling mechanisms and explaining why it believes the PD approach is best. Once published in the *Federal Register*, the proposal will be open for comment for 60 days.

Court again dismisses challenge to OCC fintech charter

The US District Court for the District of Columbia [ruled a second time](#) this week to dismiss state regulators' challenge to the Office of the Comptroller of the Currency's decision to allow fintech companies to apply for federal charters. The court had previously dismissed the Conference of State Bank Supervisors' challenge because it found that the organization lacked standing and had failed to show injury. Although the OCC has finalized procedures for considering applications, it has not yet received any applications, much less approved one. The court noted that "this dispute will be sharpened if the OCC charters a particular Fintech—or decides to do so imminently."

Fed announces plans for a real-time payments system

FedNowSM, a round-the-clock, real-time payment and settlement system, should be available through the Federal Reserve Banks in 2023 or 2024, the Federal Reserve Board [announced last month](#). The Fed is also considering the expansion of its Fedwire Funds Service and National Settlement Service hours to 24 hours a day, seven days a week, 365 days a year. The [proposed actions](#) are open for comment until November 7.

OCC, FDIC approve Volcker Rule changes

On August 20, [Comptroller of the Currency Joseph Otting](#) and the other members of the Federal Deposit Insurance Corporation Board [approved proposed changes to the Volcker Rule](#). The Federal Reserve Board, Securities and Exchange Commission and Commodity Futures Trading Commission have yet to vote on the changes.

SEC issues guidance on use of proxy firms

At its August 21 meeting, the Securities and Exchange Commission voted to [issue guidance](#) for investment advisers on how and when to use the services of proxy advisory firms. The SEC also issued an interpretation that proxy voting advice constitutes "solicitation" under the federal proxy rules. The guidance incorporated feedback the SEC received from public comments and the Staff Roundtable on the Proxy Process the SEC held last year. Commissioner Elad Roisman, who headed the work on this guidance, reiterated that "Advisers who vote proxies must do so in a manner consistent with their fiduciary obligations and . . . must take reasonable steps to ensure the use of that advice is consistent with their fiduciary duties."

SEC posts investor education videos

As part of continuing efforts to educate retail investors, the Securities and Exchange Commission posted a [series of five videos](#) last month to help investors decide whether to work with brokers or advisers. Chairman Jay Clayton said that his conversations with “Main Street investors” around the country had shown him that many don’t understand key concepts related to working with financial professionals. The videos explain Form CRS as well as the differences between brokers and advisers. They are available on [YouTube](#) as well as on SEC.gov and Investor.gov.

Confirmations, Nominations, Departures

- Senator Johnny Isakson (R-GA) [announced that he will leave the Senate](#) at the end of 2019 because of continuing health challenges, including Parkinson’s disease, a recent fall, and cancer surgery. Three years will remain in his term, and Governor Brian Kemp (R) will appoint his replacement.
- [Rep. Sean Duffy](#) (R-WI) has resigned from the House effective September 23, citing the need to focus on his family as they expect a ninth child, who will be born with a heart defect. Wisconsin will hold a special election to choose a successor.
- The number of federal legislators choosing not to seek election in 2020 has risen to 25, with long-serving Reps. [James Sensenbrenner](#) (R-WI), [John Shimkus](#) (R-IL), and [Susan Davis](#) (D-CA) announcing their retirements this week.

Coming Up in Washington

The House and Senate are back on Tuesday and will get right to work.

- September 10 North Carolina’s Third and Ninth Congressional Districts hold special elections.
- September 10 at 10:00 a.m. House Financial Services Committee holds a hearing on [“A \\$1.5 Trillion Crisis” Protecting Student Borrowers and Holding Student Loan Servicers Accountable.](#)”
- September 10 at 10:00 a.m. Senate Banking Committee holds a hearing on [“Housing Finance Reform: Next Steps.”](#) Secretary of the Treasury Steven T. Mnuchin; HUD Secretary Benjamin S. Carson, MD; and FHFA Director Mark A. Calabria, Ph.D., will testify.
- September 11 at 10:00 a.m. House Financial Services Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets holds a hearing on [“Examining Private Market Exemptions as a Barrier to IPOs and Retail Management.”](#)
- September 11 at 2:00 p.m. House Financial Services Subcommittee on National Security, International Development, and Monetary Policy holds a hearing on [“Examining the Macroeconomic Impacts of a Changing Climate.”](#)

- September 12 at 9:00 a.m. House Judiciary Committee holds a hearing on "[Online Platforms and Market Power, Part 3: The Role of Data and Privacy in Competition.](#)"
- September 12 at 9:30 a.m. House Financial Services Committee holds a hearing on "[The Future of Identity in Financial Services: Threats, Challenges, and Opportunities.](#)"
- September 12 at 10:00 a.m. Senate Banking Committee holds a hearing on "[Developments in Global Insurance Regulatory and Supervisory Forums.](#)" Witnesses will be Steven Seitz, Director of the Federal Insurance Office; Thomas Sullivan, Associate Director, Federal Reserve Board; and Maine Superintendent of Insurance Eric A. Cioppa, on behalf of the National Association of Insurance Commissioners.

The Ellis Insight

Jim Ellis reports on political news

Senate

Colorado: Former state Sen. Mike Johnston, who was the leading money-raiser in the crowded Senate Democratic race with \$3.4 million raised and \$2.6 million in the bank, has suspended his campaign. Mr. Johnston, a former gubernatorial candidate, indicated he is simply "not willing to run the kind of negative race needed" to defeat ex-Gov. John Hickenlooper for the Democratic Party nomination.

Georgia: Freshman Rep. Lucy McBath (D-Marietta), who upset GOP Rep. Karen Handel in the 2018 general election, is reportedly considering entering the Senate special election that will be conducted somewhat concurrently with the 2020 election cycle. The calendar will be announced once Sen. Johnny Isakson (R) resigns at the end of this year, though we already know that the special will be in the form of a jungle primary scheduled concurrently with the regular general election date of November 3, 2020. If no candidate receives a majority, the top two primary finishers will run-off in a January 5, 2021 statewide election.

Kansas: Western Kansas Congressman Roger Marshall (R-Great Bend) has scheduled a formal announcement for this Saturday at the Kansas State Fair. It is presumed that Mr. Marshall will make his long-awaited declaration of candidacy for the state's open US Senate seat. The Congressman had been raising money for such a race throughout the cycle but held back on making the move when it was thought that US Secretary of State Mike Pompeo might return to the state in order to run.

Rep. Marshall will enter the Republican primary against former Secretary of State and gubernatorial nominee Kris Kobach, state Senate President Susan Wagle, and Kansas Turnpike Authority chairman and former Kansas City Chiefs NFL football player Dave Lindstrom.

Massachusetts: The Change Research polling organization tested Rep. Joseph P. Kennedy III (D-Newton) in a hypothetical primary challenge to Sen. Ed Markey (D), and the incumbent starts out well behind. According to Change (8/23-25; 1,088 MA registered

voters; 808 Democratic primary voters; online), Rep. Kennedy would lead Sen. Markey 42-25% if the September 15, 2020 Democratic primary were today.

Mr. Kennedy has now admitted to considering the race and has filed a Senate committee with the Federal Election Commission. With such a long primary season, the candidate filing deadline isn't until May 5th, so much time remains for all potential contenders to make decisions.

Freshman Rep. Ayanna Pressley (D-Boston), who denied then-Rep. Mike Capuano (D-Somerville) re-nomination in the 2018 Democratic primary, also hasn't ruled out entering next year's Senate race. When asked whether she would become a candidate, Rep. Pressley was non-committal, but cryptically said, "I just follow the work. Wherever the work takes me, that's where I go."

House

CA-53: Ten-term Rep. Susan Davis (D-San Diego) is one of three more House members to announce this week that they will not seek re-election next year. The open seat count, including the two North Carolina seats that will be filled in special elections next week, now grows to 21, but Rep. Davis is only the fourth Democrat heading to the exits.

The Congresswoman's district is fully contained within San Diego County, covering part of the city of San Diego, and the La Mesa, El Cajon, Lemon Grove, Spring Valley, and Bonita communities. The region is now Democratic as evidenced by President Trump managing to receive only 30% of the vote here in 2016. Rep. Davis has averaged 64.1% in the four elections under the district's current configuration.

IL-15: Twelve-term Illinois Congressman John Shimkus (R-Collinsville) also announced that he will not seek re-election next year. The veteran Representative said he is making his decision public now because candidates will begin circulating nominating petitions next week. The 15th District covers southeastern Illinois and is a safe Republican seat. President Trump carried the district, 71-24%, a stronger performance than Mitt Romney's 63-43% margin. Mr. Shimkus was re-elected with 71% of the vote last November.

KS-2: Late this week, state Treasurer Jake LaTurner (R), who was the first to announce his US Senate candidacy when the seat opened, switched races. Mr. LaTurner will now challenge freshman Rep. Steve Watkins (R-Topeka) in the Republican primary. Many leading Republicans, including former Gov. Jeff Colyer, urged LaTurner to make the move. Resignation rumors surrounding Mr. Watkins had begun to surface, but the Congressman put such talk to bed last week. Mr. LaTurner was quoted as saying, however, that Rep. Watkins is "not focused on advancing Trump's agenda and his campaign is a wreck."

MN-7: House Agriculture Chairman Collin Peterson (D-Detroit Lakes) could well face the most accomplished opponent since he originally came to the House after the 1990 election. Right after the holiday weekend, former Lt. Governor and state Senate President

Michelle Fischbach (R) announced that she will challenge the veteran Congressman in the most pro-Trump district in the country that sends a Democrat to Washington. Mr. Trump carried this seat 62-31% in 2016. Mr. Peterson, against weak opposition, has failed to exceed 52.5% in his last two election campaigns.

NC-3: A just-released RRH Elections survey (8/26-28; 500 NC-3 likely special election voters) finds Republican state Rep. Greg Murphy (R-Greenville) holding a 51-40% lead over his Democratic opponent, former Greenville Mayor Allen Thomas, as the September 10th special election quickly approaches. The seat is heavily Republican, so Mr. Murphy is the clear favorite and could easily exceed this polling margin.

NC-9: Harper Polling released their poll (8/26-28; 551 NC-9 registered voters) for the upcoming September 10th special election congressional campaign in south-central North Carolina. According to the Harper results, Democrat Dan McCready would lead Republican state Sen. Dan Bishop (R-Charlotte), 46-42% on the first ballot test. When leaners are prodded for a response, the totals increase to 49-44%. This polling sample contained 56% female respondents suggesting a slight Democratic skew.

RRH Elections then publicized their 9th District survey results that suggest a different conclusion. The RRH study (8/26-28; 500 NC-9 likely special election voters) finds Sen. Bishop holding a slight 46-45% lead over Mr. McCready, and the margin extends to 48-41% among those who say they have already cast their ballot under the state's early voting system. Clearly, this special election campaign appears headed to a photo finish.

TX-7: The Congressional Leadership Fund yesterday released their mid-August survey (TargetPoint Consulting; 8/10-11; 336 TX-7 registered voters) that shows Iraq War veteran and mortgage industry executive Wesley Hunt (R) taking a slight lead over freshman Rep. Lizzie Fletcher (R-Houston), 45-43%. Mr. Hunt already has the national Republican leadership's support and raised over \$500,000 through the June 30th reporting period. The poll also revealed Rep. Fletcher recording only a 31:30% favorability index.

TX-17: Another Texas Congressman has decided not to seek re-election next year, making the fifth from the state to announce his retirement. Rep. Bill Flores (R-Bryan) was first elected in 2010 and has had little trouble winning re-election in his four subsequent terms. The Bryan-College Station anchored district stretches into northern Travis County and then all the way to Waco. It is a strongly Republican seat (Trump '16: 56-39%; Romney '12: 60-38%), so we can expect a hard-fought GOP primary likely followed by a run-off election featuring the top two finishers.

WI-5: Veteran Wisconsin Congressman Jim Sensenbrenner (R-Menomonee Falls), who was first elected to represent the west Milwaukee suburban area in 1978, announced yesterday that he will conclude what will be a 42-year career in the House at the end of this term. The fact that this district will open for the first time in two generations certainly changes the area's political situation, but Republicans will be favored to hold the seat. President Trump carried the CD with a 57-37% margin and will likely do so again next year.

Governor

Missouri: State Representative and physician Jim Neely (R-Cameron), serving in his last legislative session under the state's term-limit law, announced that he will challenge Gov. Mike Parson in next year's Republican primary. Gov. Parson, who ascended to the office from his position as Lt. Governor when elected Gov. Eric Greitens (R) resigned, will be running for his first elected term. He is the early favorite both in the Republican primary and general election.

State Auditor Nicole Galloway is the lone announced Democrat and well on her way to becoming a consensus candidate for the party nomination.

West Virginia: A MetroNews Dominion Post West Virginia Poll (Research America; 8/14-22; 501 WV registered voters) finds Sen. Joe Manchin (D) leading Gov. Jim Justice (R), 49-39%. In the Republican primary, Gov. Justice holds a 53-19-12% advantage over former state Commerce Secretary Woody Thrasher and ex-state Delegate Mike Folk.

Sen. Manchin had been traveling his state during the congressional recess testing the waters as to whether he should challenge Gov. Justice. Though he was leading in the aforementioned poll and presumably in private surveys, Sen. Manchin announced that he will not run for Governor choosing instead to continue his career in federal office. The Senator was just re-elected in November, meaning he does not again come before the voters until 2024.

In the last gubernatorial campaign, Mr. Manchin made a similar maneuver, indicating he might run but then chose to remain. Joe Manchin was Governor from January of 2005 to November of 2010 when he resigned to enter the Senate after winning a special election to replace the late Sen. Robert Byrd (D).

Washington: Washington state Republican leaders were trying to convince retired US Representative and former King County Sheriff Dave Reichert to return to the political wars and challenge Gov. Jay Inslee (D) next year. Late this week, Mr. Reichert released a statement saying he has decided not to run and is confident the GOP will field a strong candidate to oppose Gov. Inslee. At this point, the Governor is favored to win a third term now that he is concentrating on state office after withdrawing from the presidential campaign.

The GrayRobinson Lobbying Team

Doyle Bartlett | Dean Cannon | Chris Carmody | Larry Cretul* | Chris Dawson | Katie Flury*
Charlie Gray | Keenan Hale, Jr.* | Rhob Harbison* | John Harris* | Mike Huey | Ty Jackson | Travis Johnson
George Levesque | Jessica Love* | Chris McCannell* | Kim McDougal* | Greg Mesack | Kirk Pepper*
Joseph Salzvera | Todd Steibly* | Robert Stuart* | Jason Unger

* Denotes non-attorney professional

GRAY | ROBINSON

Boca Raton | Fort Lauderdale | Fort Myers | Gainesville | Jacksonville | Key West | Lakeland
Melbourne | Miami | Naples | Orlando | Tallahassee | Tampa | Washington, DC | West Palm Beach



www.GRLobby.com