



*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.*

January 17, 2020

## Senate approves USMCA

The Senate voted yesterday to approve the [United States-Mexico-Canada Agreement](#), which will replace the North American Free Trade Agreement. The President is expected to sign the legislation next week, although he has already signed an agreement in principle with the leaders of Canada and Mexico. Senate Minority Leader Charles Schumer (D-NY) was one of 10 votes against the agreement, saying it failed to address climate change.

## House panel blasts FASB chairman on CECL

Rep. Brad Sherman (D-CA), the new chairman of the House Financial Institutions Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets, opened [his first hearing](#) on Wednesday by calling FASB Chairman Russell Golden "the most powerful totally anonymous person in the country." The Financial Accounting Standards Board's decision to adopt the current expected credit loss (CECL) model without any testing came under fire from both sides of the aisle, as members voiced concern that the standard will reduce credit availability and make credit more expensive, and may cripple smaller financial institutions. Golden said that FASB had evaluated the CECL model according to its mission, which is "to provide better, more decision-useful information to the capital markets." They saw no need for testing it in the financial services industry before adopting the model, he said, but have postponed its application to smaller banks and credit unions until 2023. Treasury is conducting a study of CECL's potential effects, with results due by the end of this year, and Golden said they were interested in seeing the study's findings about the effects of CECL on regulatory capital. He seemed surprised by the Subcommittee's vehement objections, and told Rep. Blaine Luetkemeyer (R-MO), one of CECL's most vocal opponents, that the hearing had gotten FASB's attention.

## Agencies need to coordinate on CRA reform, House panel agrees

The House Financial Services Subcommittee on Consumer Protection and Financial Institutions held a [long, occasionally contentious hearing](#) Tuesday on the changes proposed to Community Reinvestment Act regulations. Most of the witnesses, representing community advocacy groups, called for an extension of the comment period on the OCC and FDIC's proposed changes to 120 days, pushing the current deadline back by 60 days. All the witnesses and all the Subcommittee members agreed on the need to update CRA rules, and all agreed it would be best for the three federal banking agencies to agree on common reforms. Although Fed Vice Chairman Randal Quarles indicated in testimony last year that the Fed would probably find a way to join the OCC and the FDIC in a proposal,

last week Governor Lael Brainerd made a [presentation to the Urban Institute](#) about staying true to the goals of the CRA that would take a different, data-based approach. She was speaking for herself, not for the Federal Reserve Board, but the Fed has not yet released any other proposals for reform.

## Is gentrification worsening homelessness?

The House Financial Services Committee held a [marathon hearing on Tuesday](#) to discuss four legislative proposals that seek to preserve affordable housing and make more housing available, especially in gentrifying neighborhoods. Even outside major metropolitan centers, housing shortages and housing availability mismatches are making housing unaffordable for low and moderate-income families, and the panel argued over possible solutions. Consensus emerged on the need to modify or reduce zoning restrictions that limit multifamily housing, but those changes generally need to be made at the local level, and are not within Congress's authority. Witnesses suggested attaching housing commitments and tenant protection to Opportunity Zone grants, to prevent residents from being priced out of gentrifying neighborhoods. Although short-term rentals such as AirBnB have been blamed for driving up rents, witnesses noted that AirBnB rentals can provide income that allows residents to stay in homes they could not otherwise afford. Rep. Cindy Axne (D-IA) expressed concern about rising rent on plots in manufactured housing communities, while Rep. Andy Barr (R-KY) called for integrating manufactured housing into housing policy solutions.

## Domestic terrorism financing is hard to track

Government and nonprofit security experts [told a House subcommittee this week](#) that most of the measures used to block financing of foreign terrorist activities are unavailable or not useful in fighting domestic terrorism. Appearing before the Financial Services Subcommittee on National Security, International Development, and Monetary Policy, New Jersey homeland security director Jared Maples explained that most domestic terrorism events involve lone actors who fund themselves without external support. Many larger enterprises, however, do fund themselves through criminal activities such as drug dealing and illegal weapons sales, and cryptocurrency may be increasingly attractive for domestic terror groups as they learn from their international counterparts. Mary McCord, Legal Director of the Institute for Constitutional Advocacy and Protection at Georgetown University, told the panel that the FBI cannot investigate radical groups' activities until and unless they have evidence that a crime is being committed, or is about to be committed. The First and Second Amendments offer broad protections to hate speech and the building of arsenals, up to the point of a violent act.

## Coalition asks regulators to wait for CFPB to act before reviewing definition of "qualified residential mortgage"

A wide-ranging coalition of fifty lending, housing, construction, investment, and development groups submitted a joint comment letter to the federal financial regulators this week asking that they defer action on their proposed review of their definition of "qualified residential mortgage" (QRM) until the Consumer Financial Protection Bureau (CFPB) finalizes its rule on the definition of "qualified mortgage" (QM). The so-called "GSE patch" to the CFPB's rule is scheduled to expire on January 10, 2021, and the CFPB has indicated its intent to let that patch expire. The CFPB is expected to propose a new qualified mortgage rule shortly. Since QM and QRM are linked by law — the definition of QRM can be "no broader than" the definition of QM — the member organizations of the Coalition for Sensible Housing urged the OCC, Federal Reserve Board, FDIC, SEC, Federal Housing Finance Association and Department of Housing and Urban Development "to delay completing their review at least until the CFPB's QM rulemaking is complete."

## Shelton, Waller tapped for Federal Reserve Board

The White House announced yesterday that President Trump will nominate Dr. Judy Shelton and Dr. Christopher Waller to serve as Governors of the Federal Reserve System. Shelton, a

former staff economist for Jack Kemp's National Commission on Economic Growth and Tax Reform, served most recently as US Executive Director of the European Bank for Reconstruction and Development (ERBD). Waller is currently Executive Vice President and Director of Research at the Federal Reserve Bank of St. Louis, a position he has held since 2009.

## Newsom proposes new powers for California regulator

California Governor Gavin Newsom released a budget proposal this week that, among other provisions, would expand and rename the state's [Department of Business Oversight](#) as the Department of Financial Protection and Innovation (DFPI). The new agency would license and examine "new industries that are currently under-regulated" in addition to the DBO's current responsibilities for banks, credit unions, money services companies, mortgage lenders and other lenders. It would establish a new Financial Technology Innovation Office to encourage the development of new consumer financial products, and would also offer consumer education and advocacy services.

## Confirmations, Nominations, Departures

- The **Federal Deposit Insurance Corporation** (FDIC) named **Sylvia Burns** as the agency's new Chief Information Officer. Burns has been with the FDIC since 2017 and is leading the implementation of its five-year IT modernization plan. She was previously CIO of the Department of the Interior.
- The **Securities and Exchange Commission** (SEC) named **Austin Gerig** as its Chief Data Officer. Gerig had been Assistant Director of the Office of Data Science in the SEC's Division of Economic and Risk Analysis.

## Next Week in Washington

GrayRobinson's offices will be closed on Monday for the federal holiday in honor of Dr. Martin Luther King, Jr. The House of Representatives are in recess next week. The Senate was supposed to be out as well but will return on Tuesday, January 21 to begin the impeachment trial of President Donald Trump.

**January 22 at 10:00 a.m.** Senate Committee on Commerce, Science, and Transportation holds a hearing on "[The 5G Workforce and Obstacles to Broadband Deployment](#)."

**January 23 at 1:00 p.m.** The Securities and Exchange Commission's Office of the Advocate for Small Business Capital Formation will hold its first [Capital Call](#), to report on the state of small business capital formation around the country and discuss the Office's policy recommendations. Participants are invited to ask questions live.

**January 24 at 11:30 a.m.** The SEC's Investor Advisory Committee will [meet by telephone](#) to discuss the agency's proposals on Proxy Voting Advice and Rule 14a-8, and recommendations for exchange rebate tier disclosure.

## President

**Sen Cory Booker:** Acknowledging his path to victory for the Democratic nomination has failed to materialize and with trouble qualifying as a future debate participant, Sen. Cory Booker (D-NJ) has ended his presidential quest. He will now concentrate on winning a second term as New Jersey's junior Senator as he stands for re-election later this year. Sen. Booker never was able to steer his campaign past low single-digit polling and looked to fare poorly in the First Four states whose electorates will cast their ballots throughout February.

**Florida:** Former Vice President Joe Biden may be seeing his strongest polling lead in the country from a new Florida Atlantic University survey of the Sunshine State Democratic electorate (1/9-12; 494 FL likely Democratic primary voters). The FAU results find Mr. Biden holding a 42-16-10-7-6-5% margin over Sen. Bernie Sanders (I-VT), Sen. Elizabeth Warren (D-MA), former New York City Mayor Michael Bloomberg, Sen. Amy Klobuchar (D-MN), and businessman Andrew Yang, respectively. Here, ex-South Bend Mayor Pete Buttigieg drops all the way down to also-ran status with 3% support.

**Iowa:** Now less than three weeks away from the first votes being cast in the Iowa Caucus, the Selzer & Company poll for the Des Moines Register and Mediacom (1/2-8; 701 IA likely Democratic primary voters) finds Vermont Sen. Bernie Sanders now holding a slight Hawkeye State lead for the first time this cycle.

In 2016, Sen. Sanders surprisingly held Hillary Clinton to a virtual tie here, and it is apparent that his support base is remaining intact. The Selzer results see Sanders holding a 20-17-16-15% slight edge over Sen. Elizabeth Warren (D-MA), South Bend Mayor Pete Buttigieg, and former Vice President Joe Biden. If this vote proportion were to be the actual result, all four of the candidates would qualify for delegate apportionment.

Monmouth University (1/9-12; 405 IA likely Democratic caucus attendees) also found a close Iowa race but with a slightly different take. Monmouth finds Mr. Biden holding first place followed closely by the Vermont Senator. The MU split is 24-18-17-15-8%, respectively for Biden, Sanders, Buttigieg, Warren, and Minnesota Sen. Amy Klobuchar.

**Nevada:** It appears billionaire Tom Steyer's \$100+ million media expenditure is beginning to pay dividends. According to the new Fox News Poll (1/5-8; 635 NV likely Democratic caucus attendees), Mr. Steyer has moved into a third-place tie with Sen. Elizabeth Warren (D-MA) at 12% for the February 22nd Nevada Caucus vote. Former Vice President Joe Biden leads the pack with 23% support as Sen. Bernie Sanders (I-VT) is close behind with 17% preference. Mayor Pete Buttigieg lost support from the last Nevada poll, now recording just 6 percent. Businessman Andrew Yang and Sen. Cory Booker (D-NJ), both tallying 3%, close out the survey.

According to a Myers Research/Strategy Services Nevada poll (1/2-8; 600 NV likely

Democratic caucus attendees) Sen. Sanders clings to a one-point, 29-28% edge over former Vice President Joe Biden. Sen. Elizabeth Warren (D-MA) is third with 14%, followed by billionaire Tom Steyer, South Bend Mayor Pete Buttigieg, and businessman Andrew Yang consecutively with 8-6-5 percent.

**New Hampshire:** Patinkin Research Strategies conducted their New Hampshire poll in anticipation of the February 11th primary vote (1/5-7; 600 NH likely Democratic primary voters) and they and RKM Research and Communications (1/8-12; 474 NH likely Democratic primary voters) both see three candidates on track to qualify for delegate apportionment, but as to which three is open to contention.

Patinkin finds former Vice President Joe Biden pulling ahead with 21% of the vote, just slightly ahead of Sen. Bernie Sanders' (I-VT) 19 percent. In third, but with a qualifying percentage of 17, is South Bend Mayor Pete Buttigieg. According to Patinkin, Sen. Warren is falling back to just 10% support. RKM, however, also finds Mr. Biden closely ahead of Sen. Sanders, 25-22%, with Sen. Warren returning to her more typical support level of 18 percent. They see Mayor Buttigieg as the candidate who is falling back, only recording 7% preference in this particular poll. We can expect to see further fluidity among the candidates as we approach primary election day.

**North Carolina:** Former Vice President Joe Biden has a national polling lead for the Democratic presidential nomination largely because of his strong standing in the southern states. The latest North Carolina survey from Public Policy Polling (1/10-12; 509 NC likely Democratic primary voters) underscores Mr. Biden's southern dominance. Here, he leads Sens. Bernie Sanders and Elizabeth Warren 31-18-15%, with Mayor Michael Bloomberg scoring 8%, while ex-Mayor Pete Buttigieg and businessman Andrew Yang record 6 and 5%, respectively.

**South Carolina:** Fox News polling (1/5-8; 808 SC likely Democratic primary voters) also sees billionaire Tom Steyer making a major move in South Carolina, the fourth voting state on the presidential primary calendar. Here, he moves into sole position of second place with 15%, but well behind former Vice President Joe Biden's 36% support figure. Sen. Bernie Sanders (I-VT) drops back to third, just behind Steyer with 14%, while Sen. Elizabeth Warren (D-MA) and Mayor Pete Buttigieg post 10 and 4% preference numbers.

**Wisconsin:** Fox News' Wisconsin survey (1/5-8; 671 WI likely primary voters) tests an electorate that won't vote until April 7th. Here, we see Sen. Bernie Sanders (I-VT) making a dash to the front as he comes in just two points behind former Vice President Joe Biden's 23 percent. Sen. Elizabeth Warren (D-MA), South Bend Mayor Peter Buttigieg, ex-Mayor Michael Bloomberg, and Sen. Amy Klobuchar (D-MA) follow with 11-9-7-4%, respectively.

Marquette Law School, a frequent political pollster of the Wisconsin electorate, also conducted a new survey (1/8-12; 800 WI registered voters; 358 likely WI Democratic primary voters). They find former Vice President Joe Biden clinging to a small 23-19-15-14-6-6% lead over Sen. Bernie Sanders (I-VT), ex-Mayor Pete Buttigieg, Sen. Elizabeth Warren (D-MA), ex-Mayor Michael Bloomberg, and businessman Andrew Yang. This poll suggests that

Wisconsin is yet another state where four candidates could qualify to receive committed delegate votes.

## Senate

**Georgia:** In a new statewide race that is developing slowly, former US Attorney Ed Tarver (D) is making it clear that he will soon be declaring his candidacy for the Georgia special US Senate election. Republicans will have appointed Sen. Kelly Loeffler running for her party's nomination now that Gov. Brian Kemp (R) has chosen her to replace resigned Sen. Johnny Isakson (R). This race is expected to be close, contentious, and could feature a hot Republican primary. Rep. Doug Collins (R-Gainesville) reiterated that he has not ruled out challenging Sen. Loeffler for the party nomination. The Georgia primary is May 19th, and the candidate filing deadline is scheduled for March 6th.

**Massachusetts:** Originally, Massachusetts had scheduled the nation's latest state primary on September 15th. That has now changed. The legislature took action and Gov. Charlie Baker (R) signed a bill to move this year's primary to September 1st. The stand-alone presidential primary will take place on Super Tuesday, March 3rd, as originally planned. The date change most directly affects the Democratic US Senate primary between incumbent Ed Markey and Rep. Joseph P. Kennedy III (D-Newton). This is expected to be one of the few partisan primary battles in any Senate state and promises to provide an interesting result.

**North Carolina:** Public Policy Polling just released a survey of North Carolina Democratic primary voters (1/10-12; 509 NC likely Democratic primary voters) to determine how the Senate nomination battle might end. The winner faces Republican Sen. Thom Tillis in the general election. The PPP results find former state Sen. Cal Cunningham, the Democratic establishment's backed candidate, leading state Sen. Erica Smith (D-Gaston) 22-12% with an overly large undecided factor of 60%. The North Carolina primary is scheduled for March 3rd, so this race will be quickly gaining momentum.

**West Virginia:** So far, Sen. Shelley Moore Capito (R) has had the candidate field to herself as she moves into position to secure re-election to a second term later this year. After originally declaring in the presidential race, only to become the first to exit, former state Senator and ex-WV-3 District congressional candidate Richard Ojeda (D) announced that he will enter this year's Senate race. The outlook is still extremely favorable for Sen. Capito, but it is now clear that she will have opposition.

**Wyoming:** At-large Rep. Liz Cheney (R-Wilson/Jackson) yesterday made her long-awaited statement about whether she will enter the state's open Senate race this year. The Congresswoman announced to the Republican Conference members that she will remain in the House and in her leadership position. Rep. Cheney is chair of the House Republican Conference, the third position in minority leadership. This means that former Rep. Cynthia Lummis (R), who has been running for the Senate seat since soon after incumbent Mike Enzi (R) announced his retirement, is at least the short-term leader.

## House

**CA-50:** We know that Rep. Duncan Hunter (R-Alpine) has resigned his seat after pleading guilty to one campaign finance violation. Additionally, Gov. Gavin Newsom (D) has said he will not call a special election to fill the new vacancy. This means the seat will remain without a Representative until next year. That being the case, Survey USA for the San Diego Union-Tribune polled the district (1/9-12; 512 CA-50 likely voters) and found Democrat Ammar Campa-Najjar leading the field with 26%, which is not surprising because the four polled Republicans split the dominant party vote.

In second place is former Congressman Darrell Issa (R) with 21%, and former San Diego City Councilman and radio talk show host Carl DeMaio is following closely with 20%. State Sen. Brian Jones (R-Santee) is fourth with 12%. Under the California election system, the top two March 3rd regular primary finishers, regardless of political party affiliation, will advance to the November 3rd general election.

**NJ-2:** It appears the New Jersey Republican Party is getting ready to formally back party-switching Congressman Jeff Van Drew (R-Dennis Township/Atlantic City). GOP state chairman Doug Steinhardt issued a statement yesterday saying, "he's the incumbent Congressman and we're here to be supportive...that's our job, that's what we do." Mr. Van Drew left the Democratic Party after opposing President Trump's impeachment. Three Republicans are in the primary campaign including self-funding venture capitalist David Richter.

**NY-2:** Former Rep. Rick Lazio (R-NY), who challenged Hillary Clinton for the Senate when she first ran in 2000, says he will not attempt a political comeback this year in the seat from which veteran Rep. Peter King (R-Seaford) is retiring. Mr. Lazio, who defeated then-Rep. Tom Downey in 1992 and would serve four full terms in the House, has been away from elective office for what will be 18 years at the time of the upcoming election.

**NY-27:** Reports are emanating from Albany that indicates Gov. Andrew Cuomo (D) will schedule the special election to replace resigned Rep. Chris Collins (R) concurrently with the state's April 28th presidential primary. Under New York law, the political parties will choose their own nominees through votes of the county chairmen whose entities comprise the CD. In this case, all or parts of eight Upstate counties are part of District 27. The winner of the April 28th election will take the seat immediately to serve the balance of the current term. The new House member would then be eligible to run for a full term in the June 23rd state primary and of course in the general election.

## Governor

**Vermont:** Vermont Lt. Gov. David Zuckerman (D) announced this week that he will enter the Democratic gubernatorial primary to challenge two-term Republican Gov. Phil Scott in a state that consistently votes against the incumbent's political party. Though Gov. Scott has successfully won two terms – Vermont and New Hampshire are the only two states that limit their Governors to two-year terms – he can never be considered safe in a such a strongly Democratic state. This will be particularly true in 2020 if home state Sen. Bernie Sanders wins the party nomination for President.

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