



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 22, 2020

Senate approves bill to delist firms owned by China

The Senate voted by unanimous consent on Wednesday to approve [S. 945](#), the Holding Foreign Companies Accountable Act, which would require companies listed on U.S. equity exchanges to establish that they are not owned or controlled by a foreign government. The bill, sponsored by Senator John Kennedy (R-LA) and Senator Chris Van Hollen (D-MD), would require foreign-owned public companies with foreign accounting firms to allow the Public Company Accounting Oversight Board (PCAOB) to review their audits. The companies would also have to affirm that they are not owned or controlled by a foreign government. If the companies refuse for three consecutive years, they will be delisted from US stock exchanges. Although S. 945 would apply to all foreign-owned companies, in practice it would affect only Chinese firms, as [only Chinese firms deny the PCAOB access](#) to their audits. Rep. Brad Sherman (D-CA) has introduced a companion bill in the House, but no action has been scheduled there.

OCC finalizes new Community Reinvestment Act rule

On Wednesday, the Office of the Comptroller of the Currency [finalized a new rule](#) to implement the Community Reinvestment Act of 1977. The new rule will take effect for national banks and federal savings banks on October 1, 2020. The FDIC, which had joined the OCC in proposing the new rule, did not finalize their rule for state-chartered banks and savings banks, and the Federal Reserve, which supervises state banks that belong to the Federal Reserve System, has not formally proposed a new rule. The OCC's rule would, for the first time, identify specific activities that qualify for CRA credit. It would update the method of defining community assessment areas to reflect the development of online banking services. It would set standards for making CRA assessments more consistent, and it would set new reporting deadlines to make assessments more timely. Neither the FDIC nor the Fed commented publicly about the OCC rule, but House Financial Services Committee Chairwoman Maxine Waters (D-CA) blasted it, calling the Comptroller's action "simply outrageous."

Mnuchin, Powell report on CARES Act implementation

Members of the Senate Banking Committee grilled Treasury Secretary Steven Mnuchin and Federal Reserve Board Chairman Jerome Powell at a [lengthy video-conferenced hearing](#) on implementation of the CARES Act on Tuesday. Powell told the committee that

the Main Street Lending Facility and the Municipal Lending Facility, the last two big pieces of Title IV of the CARES Act to be implemented, should be up and running by the beginning of June. Senators expressed concern about how to get relief funding to smaller counties and municipalities; Powell said that 50,000 entities would be able to borrow from the Municipal Lending Facilities, and that the Fed expects states to distribute the funds they borrow. While Chairman Powell said additional fiscal support might be necessary to prevent long-term economic damage, Secretary Mnuchin said only that Treasury would like to get some technical fixes on use and forgiveness of Payment Protection Program (PPP) loans.

Senate, House consider fixes to PPP

Senators Marco Rubio (R-FL), Ben Cardin (D-MD), Susan Collins (R-ME) and Jeanne Shaheen (D-NH) are cosponsoring amendments to the Paycheck Protection Program (PPP) that Secretary Mnuchin and others have requested, but the Senate left for a week's recess yesterday without taking action. The Paycheck Protection Program Extension Act would extend the deadline to apply for a PPP loan to December 30. It would allow borrowers 16 weeks, instead of eight, to use their loan funds. It would allow borrowers to use these funds for personal protective equipment (PPE) for employees and other adaptive measures to make the workplace safer (drive-through windows, sneeze guards, ventilation upgrades, etc.). Borrowers who had maintained their payrolls for eight weeks would not need to extend that to 16 weeks in order to get loan forgiveness, and lenders would be held harmless for any misrepresentations borrowers make. The House will likely take up its own version of PPP amendments next week.

FHFA unveils new capital framework for GSEs

The Federal Housing Finance Agency (FHFA) has proposed a [new regulatory capital framework for Fannie Mae and Freddie Mac](#), updating and replacing its 2018 proposal, which was never adopted. The new proposal, published on Wednesday, would require the GSEs to amass and maintain approximately \$240 billion in aggregate capital. This proposed framework would be stronger than the 2018 plan, the FHFA said, increasing both the quality and the quantity of capital the GSEs would be required to maintain. The proposed rule includes supplemental capital requirements similar to those required for banks. It would set a 15 percent risk weight floor for single family and multifamily mortgage exposures and set backstop leverage requirements of 2.5 percent of an Enterprise's adjusted total assets, with an additional leverage buffer amount of 1.5 percent of adjusted total assets. The rule would make several changes to address pro-cyclicality concerns, including capital buffers and a countercyclical adjustment to mark-to-market loan-to-value ratios. Once published in the Federal Register, the proposal will be open for comment for 60 days.

Regulators publish shared principles for small-dollar loans

The Federal Deposit Insurance Corporation (FDIC), Federal Reserve Board, National Credit Union Administration (NCUA), and Office of the Comptroller of the Currency (OCC) [issued joint principles](#) this week to guide financial institutions that make "responsible small-dollar loans" to individuals and small businesses. The principles cover both open-ended lines of credit with minimum payments or closed-end loans with single-payment or installment payment structures. Regulators expect institutions to have policies in place that govern loan structures, loan pricing, loan underwriting, loan marketing and disclosures, and loan servicing and safeguards. The principles follow a [joint statement](#) from the agencies in March that encouraged institutions to make these loans as part of their response to COVID-19.

CFPB offers no-action letters for banks that make small-dollar loans, mortgage servicers offering loss mitigation

The Consumer Financial Protection Bureau published [two templates for no-action letters](#)

[\(NAL\)](#) today to make it easier for financial institutions and mortgage services to offer customers small-dollar loans and mortgage forbearance or mitigation. The Bank Policy Institute (BPI) asked for the no-action letter template for insured depository institutions that offer short-term loans of up to \$2,500 under certain structures and guidelines. Brace Software asked for the no-action letter template for mortgage servicers that plan to use Brace's loss mitigation platform.

Otting to leave OCC, Brooks will be Acting Comptroller

A day after finalizing the CRA rule, Comptroller of the Currency Joseph Otting [announced](#) that he will resign that office effective May 29. First Deputy Comptroller and Chief Operating Officer Brian Brooks will serve as Acting Comptroller until a successor is confirmed. Otting, a career banker, had served as Comptroller since 2017. Brooks, an attorney, joined the OCC on April 1 of this year from Coinbase, a cryptocurrency exchange, where he was Chief Legal Officer. He previously served as Executive Vice President, General Counsel, and Corporate Secretary of Fannie Mae.

Next Week in Washington

Monday is the federal holiday for Memorial Day. Both the House and Senate were supposed to be in recess next week, but the House will be in session and committees will meet, if only virtually.

- **May 26 at 12:00 p.m.** House Financial Services Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets holds a virtual roundtable on "Examining the Impacts of the COVID-19 Pandemic on US Capital Markets."
- **May 27 at 2:30 p.m.** The Brookings Institute's Hutchins Center holds a webinar on "[COVID-19 and the financial system — How and why were financial markets disrupted?](#)" The webinar is free to the public, but registration is requested.
- **May 28 at 2:00 p.m.** House Financial Services Subcommittee on National Security, International Development, and Monetary Policy holds a virtual roundtable on "Understanding the Cyber Threats and Actors Exploiting the COVID-19 Crisis."

The Ellis Insight

Jim Ellis reports on political news

President

Rep. Justin Amash: Michigan Rep. Justin Amash (L-Cascade Township/Grand Rapids) decided not to seek the Libertarian Party presidential nomination after filing an exploratory committee to assess his chances. Rep. Amash cited the COVID-19 precautions that make personal campaigning difficult as one reason not to continue along the presidential path. He says he is committed to helping build the national Libertarian Party, however.

Arizona: Regular Arizona pollster OH Predictive Insights (5/9-11; 600 AZ likely voters) finds former Vice President Joe Biden putting some distance between he and President Trump, 50-43%, in what is a must-win state for the Republican incumbent. The poll itself is not yet in the public domain, therefore making it difficult to analyze the nuances.

Hodas Polls: The Hodas & Associates survey research firm went into the field to test the swing Great Lakes/Mid-Atlantic states and produced surprisingly inconsistent data.

Conducting surveys among sampling universes of 600 likely general election voters in Michigan, Pennsylvania, and Wisconsin in early May, Hodas finds the results very different than the three close wins Donald Trump recorded in these places four years ago. While former Vice President Joe Biden posts wide leads in Wisconsin (51-42%) and Michigan (50-42%), he surprisingly trails President Trump in Pennsylvania (46-50%).

Senate

Alabama: It appears not much has changed since soon after the March 3rd Alabama statewide primary. Retired Auburn University head football coach Tommy Tuberville finished ahead of former US Attorney General and Alabama Sen. Jeff Sessions in the Republican primary, and immediate post-election polling reported that Mr. Tuberville was opening a large lead. Despite the time lag, such still appears to be the case.

The Cygnal polling firm conducted their survey of 607 likely Republican runoff voters over the May 7-10 period and found Mr. Tuberville expanding his lead all the way to 55-32%. At this point, the longer runoff election period – originally the secondary vote was scheduled for March 31 but was moved all the way to July 14th – has not helped the former incumbent. The runoff winner faces Sen. Doug Jones (D) in November.

Arizona: The aforementioned OH Predictive Insights Arizona survey (see Arizona in the Presidential section above) finds appointed Sen. Martha McSally (R) dropping behind retired astronaut Mark Kelly (D) by a double-digit margin for the first time. The ballot test yields a 51-38% Kelly advantage. As what plagued her in the 2018 Senate race against Kyrsten Sinema (D), population dominant Maricopa County is performing well above the norm for a Democratic candidate.

Michigan: A pair of Michigan US Senate polls both find Sen. Gary Peters (D) leading his re-election campaign against challenger John James (R), but Hodas & Associates (5/1-5; 600 MI likely voters) and Change Research (5/11-17; 3,070 MI likely voters; online) see very different margins. Hodas gives Sen. Peters a big lead, 48-36%, a wider spread than other pollsters have found, and Change projects a five-point spread between the two men, 48-43%, also in the incumbent's favor. The latter ballot test result is more consistent with other previously released data, however.

North Carolina: Coming off four consecutive April-May polls that found Sen. Thom Tillis (R) trailing Democratic nominee Cal Cunningham, East Carolina University just released their latest data (5/7-9; 1,111 NC registered voters) that sees the Senator rebounding to take a slight 41-40% advantage. The previous May poll from the Civiqs organization for the Daily Kos Elections website (5/2-4; 1,362 NC registered voters) projected Mr. Cunningham to a substantial 50-41% lead.

House

IA-4: The American Future Fund organization sponsored a poll of Iowa's 4th District Republican primary and found challenger Randy Feenstra now eclipsing Rep. Steve King (R-Kiron) in their GOP nomination battle that will be settled on June 2nd. Mr. Feenstra, a state Senator and former chairman of the Senate Ways & Means Committee, has been steadily moving upward in polling for the past several weeks.

Now, the AFF's Public Opinion Strategies survey (5/16-18; 500 IA-4 likely Republican primary voters) sees Feenstra topping the incumbent, 41-39%. Additionally, Sen. Feenstra had a huge 16:1 cash-on-hand advantage over Rep. King at the close of the 2nd quarter financial reporting period.

NE-2: Rep. Don Bacon (R-Papillion/Omaha) just received two impressive Democratic insider endorsements in his re-match with progressive left Democratic nominee Kara Eastman. Bob Krist, the 2018 Democratic gubernatorial nominee, and former Nebraska Democratic Party executive director Barry Rubin both publicly endorsed Rep. Bacon this

week. The 2018 contest saw Mr. Bacon defeating Ms. Eastman, 51-49%, and the 2020 version is also expected to be competitive.

Oregon: Former Vice President Joe Biden registered a rather uninspiring performance in the Oregon presidential primary last night, scoring a 67% win but against an entire field of candidates who long ago exited the race. All other Democratic incumbents running in the same type of low competition elections all recorded over 81% of the primary vote. Whether Mr. Biden's performance suggests that he still has not convinced a large share of the Sanders-Warren coalition to support his candidacy remains to be seen.

The 2nd District with Rep. Greg Walden (R-Hood River) retiring from the lone Republican CD in the state, which encompasses the entire eastern Oregon sector, is open for the first time since 1998. Defeating 2018 GOP gubernatorial nominee Knute Buehler is former state Senator Cliff Bentz, who ran well to the former man's right. The primary was a crowded affair with 11 candidates on the ballot. Mr. Bentz is now the prohibitive favorite to win here in November.

The only other even slightly competitive primary occurred in the Salem anchored 5th District where veteran incumbent Rep. Kurt Schrader (D-Canby) was re-nominated over local Mayor Mark Gamba with 70% of the vote. Rep. Schrader will now have an easy general election run.

SC-1: One of the bigger upset victories coming in 2018 election was Democrat Joe Cunningham (D-Charleston) converting the open Palmetto State 1st District after then-Representative and former Governor Mark Sanford lost re-nomination in the Republican primary. Now, the eastern South Carolina district becomes a top tier challenge race for the GOP.

If Mt. Pleasant Town Councilwoman Kathy Landing were the Republican nominee, she would lead Rep. Cunningham, 45-43%, according to First Tuesday Strategies (5/15-18; 500 SC-1 likely general election voters). Should state Rep. Nancy Mace (R-Daniel Island) win the party nomination, she would edge the Congressman by an almost identical 45-44% split.

TX-4: Texas Rep. John Ratcliffe (R-Heath/Rockwall) quickly resigned his seat in the House after the Senate confirmed him to become the country's Director of Intelligence, meaning we have a new vacancy. Immediately after the resignation announcement, Gov. Greg Abbott (R) announced that he would not call a special election to fill the balance of the current term.

Republican Party of Texas chairman James Dickey said the 4th District Executive Committees will meet in convention on August 8th to choose a replacement nominee for the November ballot. Since Mr. Ratcliffe had already won re-nomination for this year's general election, the Executive Committee is forced to act. Because the seat is safely Republican, whoever emerges from the Committee vote will become the new Representative next year.

WI-7: Tricia Zunker (D), the Wausau School Board member who lost a wide 57-43% to Rep-Elect Tom Tiffany (R-Minocqua) in the special election earlier this month, announced that she will file to run for the full term in the regular primary (August 11th) and general election. Candidate filing is fast approaching on June 1st. Considering the size of his May 12th victory, Rep-Elect Tiffany will be rated a heavy favorite to win the full term.

Governor

Alaska: Since the COVID-19 virus became omnipresent, a state law was enacted to give the Lt. Governor, the chief elections officer in Alaska, the ability to order an all-mail election. Yesterday, Lt. Gov. Kevin Meyer (R) announced that the August 18th primary would proceed in normal fashion, rejecting the all-mail option citing potential voter fraud.

Mr. Meyer said, “that’s 600,000 unsecured ballots that are either sitting in the post office, sitting on your kitchen table, or in the garbage can. And that’s very concerning to us.”

Georgia: The Georgia primary has already been moved from May 19th to June 9th as a result of COVID-19 precautions, but a number of voting rights groups coalesced to file a lawsuit asking for the election to again be delayed, this time until June 30th. A federal judge sitting in the Northern District of Georgia, rejected the lawsuit, saying moving the primary is a “nonjusticiable political question,” therefore, voting will remain on June 9th. Judge Timothy Batten said that the election scheduling issue is a matter for the legislature and Governor to decide.

Missouri: Everyday, we see more legislative and judicial action surrounding voting procedures, mostly in response to the COVID-19 virus. In Missouri, a state court’s ruling against expanding absentee mail voting for the upcoming primary election will now be heard by the state Supreme Court.

While the Coronavirus precautions are the reason the lawsuits began, the proponents are invariably trying to take the changes further, wanting them to apply to this year’s general election and likely beyond. The Missouri primary is not until August 4th, but we can still expect a quick ruling coming from the high court since election officials obviously need lead time to send the absentee ballot application forms prior to the actual primary election date.

North Carolina: The aforementioned East Carolina University poll (see North Carolina Senate above) also tested the 2020 Governor’s campaign. Since the March 3rd primary, Gov. Roy Cooper (D) has been leading Lt. Gov. Dan Forest (R) by wide polling margins, and the ECU model is no exception. According to the university data, Gov. Cooper enjoys a 51-36% lead, consistent with the other seven post-primary published surveys.

Pennsylvania: The Pennsylvania state Supreme Court, overturned a lower court ruling that allowed voters to return their primary absentee ballots after the election so long as the envelope was postmarked by election day. The plaintiffs were asking for a seven-day post-election period for the various county election departments to receive ballots. The high court’s action means that local authorities must receive all ballots by June 2nd.

Texas: The Texas state Supreme Court, overturning a lower court ruling, disallowed the all-mail voting option for the coming July 14th runoff and general elections. The mail voting issue may not be settled, however. Two more lawsuits, both addressing the same all-mail option issues, remain alive in a pair of federal courts.

Washington: Gov. Jay Inslee (D), who was one of the first 2020 presidential candidates to exit the national race, is running for a third term in his home state. He is a clear favorite for re-election, but the jungle primary will be interesting. He faces no less than 35 opponents who just completed the candidate filing process during the week.

Survey USA (5/16-19; 530 WA likely voters) tested the Washington jungle primary, scheduled for August 4th, and found Gov. Inslee way ahead in each general election scenario as he drives for a third term. None of his potential opponents have developed much in the way of statewide name identification, thus allowing the Governor to post leads of between 22 and 29 points against each of four general election possibilities.

The GrayRobinson Lobbying Team

[Doyle Bartlett](#) | [Dean Cannon](#) | [Chris Camody](#) | [Larry Cretul*](#) | [Chris Dawson](#) | [Katie Flury*](#)
[Charlie Gray](#) | [Keenan Hale*](#) | [Rheb Harbison*](#) | [John Harris*](#) | [Mike Huey](#) | [Ty Jackson](#)
[George Levesque](#) | [Jessica Love*](#) | [Chris McCannell*](#) | [Kim McDougal*](#) | [Greg Mesack*](#)
[Kirk Pepper*](#) | [Joseph Salzvera](#) | [Todd Steibly*](#) | [Robert Stuart*](#) | [Jason Unger](#)

* Denotes non-attorney professional



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