



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.

December 13, 2019



Paul Volcker

photo credit: James K.W. Atherton/*The Washington Post*

A giant passes

Paul Volcker, in case you never saw him in person, stood six feet, seven inches tall. He served as Chairman of the Federal Reserve Board from 1979 to August 1987, and is responsible in many ways for the Federal Reserve System as it exists today. He died Sunday at the age of 92. "He believed there was no higher calling than public service," said current Fed Chair Jerome Powell on Monday. "His life exemplified the highest ideals—integrity, courage, and a commitment to do what was best for all Americans. His contributions to the nation left a lasting legacy."

FDIC, OCC seek comment on proposed changes to CRA

The Federal Deposit Insurance Corporation (FDIC) and Office of the Comptroller of the Currency (OCC) jointly proposed [new rules to implement the Community Reinvestment Act \(CRA\)](#) yesterday, which would be the first substantive changes to the CRA framework since 1995. At a board meeting yesterday, FDIC Chairman Jelena McWilliams said that CRA regulations had become out of sync with technological and business changes in the banking industry, and must be updated in order to fulfill the statute's requirements. The proposal's main goal is to increase lending in low and moderate income communities, she said. It would increase the amount of CRA-qualifying loans to \$2 million, and expand activities that qualify for CRA credit to include capital investments in and loan participation with community development financial institutions (CDFI). The FDIC and OCC would periodically publish lists of CRA-qualifying activities, and set new performance standards for CRA-qualified lending and other activities. It would allow banks with \$500 million in assets or less to opt out of the new rules, and choose instead to continue to be evaluated under the old system. McWilliams called for "robust public comment" on the proposal, and comments are open for 60 days after publication in the Federal Register. House Financial Services Committee Chairwoman Maxine Waters (D-CA) [led a delegation of Committee Democrats](#) to the FDIC's board meeting to object to the proposal.

FDIC proposes changes to rules on brokered deposits

The FDIC also voted yesterday to seek comment on a [proposed rule](#) that would "modernize a regulatory framework built for a different era" of deposits collected through nontraditional channels. FDIC Chairman McWilliams discussed the proposal in a [keynote address at the Brookings Institution](#) on Wednesday, laying out the regulation's goals: to encourage innovation; take a balanced approach to implementing Section 29 of the Federal Deposit Insurance Act; minimize risk to the Deposit Insurance Fund; and establish an administrative process that emphasizes consistency and efficiency. The proposal would create a new framework for how the FDIC identifies "brokered deposits" for purposes of Section 29, clarify the "insured depository institution" (IDI) exception, and clarify the "primary purpose" exception. FDIC Board member and former Chairman Martin J. Gruenberg voted against the proposal, saying it would significantly weaken an important prudential rule. The proposal will be open for comment for 60 days after it appears in the *Federal Register*.

House Financial Services Committee approves eight bills

The House Committee on Financial Services closed 2019 by approving eight bills Chairwoman Waters described as "[commonsense legislation to benefit hardworking Americans](#)." Two bills passed unanimously: [H.R. 5322](#), the Ensuring Diversity in Community Banking Act of 2019, which would provide flexibility to encourage investments in minority depository institutions (MDI), and make additional funds available for them to lend; and [H.R. 5315](#), the Expanding Opportunity for Minority Depository Institutions (MDIs) Act, which would codify the Treasury Department's mentor-protégé program for MDIs. Six other bills passed along party lines: [H.R. 5332](#), the Protecting Your Credit Score Act of 2019, which would require the nationwide credit reporting agencies to create a single portal for consumers; [H.R. 5330](#), the Consumer Protections for Medical Debt Collections Act; [H.R. 5294](#), the Student Borrower Protections Act; [H.R. 5287](#), the Fair Student Loan Debt Collection Practices Act; [H.R. 4545](#), the Private Loan Disability Discharge Act of 2019; and [H.R. 1731](#), the Cybersecurity Disclosure Act of 2019.

SEC to propose new definition of “accredited investor”

At an [oversight hearing on Tuesday](#), Securities and Exchange Commission Chairman Jay Clayton told the Senate Banking Committee the agency would soon be issuing a proposal to amend the definition of “accredited investor.” He wasn’t kidding — yesterday the SEC announced it will take up a notice of proposed rulemaking on this issue at a meeting next Wednesday. Clayton said the new definition will be “less binary,” and less focused on wealth, and will give more weight to expertise. Clayton said that “proxy plumbing” modernization and universal proxies are also on the SEC’s near-term agenda, along with pending proposals on proxy advisors. Committee Democrats expressed concern about the SEC’s proposals on proxy advisors and shareholder petitions; Clayton said the SEC would carefully review the comments it receives, and that they want to hear from “people of all types.” Senators on both sides of the aisle urged Clayton to enforce US audit standards against Chinese-owned companies that trade on US exchanges.

Confirmations, Nominations, Departures

- **Rep. Ted Yoho (R-FL)** announced this week that he will not seek a fifth term in Congress. This brings the total of Representatives who will not be running for reelection to 32—23 Republicans and 9 Democrats.
- **Rep. Brad Sherman (D-CA)** will chair the House Financial Services Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets, succeeding **Rep. Carolyn Maloney (D-CA)**, who now chairs the House Committee on Oversight and Reform.
- The House Financial Services Committee voted to extend its Task Force on Artificial Intelligence for another six months, with **Rep. Bill Foster (D-IL)** continuing to serve as Chair and **Rep. Barry Loudermilk (R-GA)** serving as ranking member.

Next Week in Washington

- The House and Senate were both supposed to leave town today, but they didn’t. Next week Congress will vote on a government funding bill, which should include authorization for the National Flood Insurance Program and the Export-Import Bank; the current continuing resolution expires on December 20. The House will also vote on articles of impeachment against President Donald J. Trump, and is expected to vote on the US-Mexico-Canada trade agreement (USMCA) as well.
- **December 18 at 10:00 a.m.** The Securities and Exchange Commission will [meet in open session](#) to consider several items, including whether to propose amendments that would expand the definition of “accredited investor,” disclosure requirements for oil companies’ resource extraction payments, proposals for rules and guidance

concerning cross-border swaps, and the 2020 budget for the Public Company Accounting Oversight Board (PCAOB).

- **December 18 at 10:15 a.m.** The House Education Subcommittee on Higher Education and Workforce Investment will hold a hearing on "[The Future of Work: Ensuring Workers are Competitive in a Rapidly Changing Economy.](#)"

The Ellis Insight

Jim Ellis reports on political news

President

For President Trump to win re-election, he must carry all five of the states in his 2016 coalition that typically vote Republican but have been trending closer to the Democrats since the last presidential election. Those are Arizona, Georgia, and Texas; Florida and North Carolina are swing states in virtually every election, and will be again in 2020. To win, the President must first carry all of these aforementioned states. If so, he then would need to win just one of the Michigan, Pennsylvania, Wisconsin trio in order to yield a bare Electoral College majority.

For the Democrats to win under a model where Mr. Trump carries the five aforementioned Republican states and sees no other leakage in his 2016 victory coalition, the eventual party nominee must win Pennsylvania and then take either Michigan or Wisconsin in order to gain a bare majority.

Democratic Debates: The Democratic National Committee leadership just announced that four presidential debates will be conducted between January 1st and March 1st. The forums will occur before voting begins in each of the four places hosting February nominating events.

The first 2020 debate will be held at Drake University in Des Moines, IA on January 14th prior to the February 3rd Iowa Caucus vote. The next will emanate from Manchester, NH on February 7th, just before the first-in-the-nation primary on February 11th. Las Vegas will host the third 2020 debate on Feb. 19th before the February 22nd Nevada Caucus, and the final pre-Super Tuesday session will come from Charleston, SC on Feb. 25th prior to the Saturday South Carolina primary (February 29th). Candidate qualification requirements have not been announced.

CNN Polls: CNN, with their SSRS survey research partners, conducted Democratic presidential primary polls in the two big states of California (416 first ballot delegates) and Texas (228 delegates). The California poll was taken during the December 4-8 period and sampled 508 likely Democratic primary voters. The questioning process for the Texas poll went one extra day, until December 9th, and surveyed a small group of only 327 likely Democratic primary voters.

In California, we see a four-way race continuing to unfold as former Vice President Joe

Biden led Sen. Bernie Sanders by just a 21-20% count. Sen. Elizabeth Warren closely trailed with 17% support, thus making the polling result a virtual three-way tie. Here, Mayor Pete Buttigieg attracts only 9% support, while businessman Andrew Yang surprisingly increases to 6%. In Texas, Mr. Biden has opened up a clear lead, topping Sanders and Warren 35-15-13%, with Buttigieg again getting 9% preference and only Michael Bloomberg reaching the 5% plateau.

Harris/Harvard Poll: The Harris survey research firm teamed with Harvard University's Center for American Political Studies (11/27-29; 1,859 registered voters; 756 registered Democratic voters; online) and finds that former Secretary of State and 2016 presidential nominee Hillary Clinton would return to a small lead if she were to enter the race.

According to the national survey, Clinton would score 21% support, just ahead of former Vice President Joe Biden's 20%. Sens. Bernie Sanders and Elizabeth Warren would trail with 12 and 9%, respectively, while Mayor Pete Buttigieg would drop to 5% support. Without Clinton in the field, Biden returns to a 29-16-13-8-7% consecutive advantage over Sanders, Warren, Buttigieg, and ex-New York City Mayor Michael Bloomberg.

Ipsos Reuters Poll: Another Democratic presidential primary poll was released, and the Ipsos Reuters finds former Vice President Joe Biden leading. The surveys contain large undecided numbers, however, mostly because the other candidates' preference numbers are falling. Ipsos (12/4-5; 719 US adults) projects Mr. Biden's lead to be only 19-14% over Sen. Bernie Sanders (I-VT), while Sen. Elizabeth Warren (D-MA), Mayor Pete Buttigieg, and former New York City Mayor Michael Bloomberg trailing with just 9-6-4%, respectively. The undecided factor here is 38%.

MassInc Poll: For the first time, South Bend Mayor Pete Buttigieg has been projected in first place in New Hampshire. The MassInc survey for Boston public radio WBUR (12/3-8; 442 NH likely Democratic primary voters) finds Mayor Buttigieg taking a very slight 18-17-15-12% lead over former Vice President Joe Biden, Sen. Bernie Sanders, and Sen. Elizabeth Warren. In effect, we see a four-way race building in the Granite State with a large undecided factor. The New Hampshire primary is in two months, scheduled for February 11th.

Quinnipiac Poll: The new national Q-Poll is public (12/4-9; 665 US likely Democratic primary voters) and though the sample size is smaller than their typical surveys, the results appear consistent with most other available data. Quinnipiac finds former Vice President Joe Biden leading with 29% and Sen. Bernie Sanders (I-VT) following with 17%.

Most national polls are now showing Mr. Biden returning to his pre-debate levels, and Sen. Sanders taking second place as opposed to Sen. Elizabeth Warren (D-MA). Here, Sen. Warren secures 15% with Mayor Pete Buttigieg posting 9%, ex-New York City Mayor Michael Bloomberg at 5%, and businessman Andrew Yang recording 4% support. All other minor candidates follow.

South Carolina Poll: A new Change Research survey of the South Carolina Democratic electorate (12/6-11; 392 SC likely Democratic primary voters) for the first time projects a

tightening of the state's ballot test. While former Vice President Joe Biden continues to lead here, as he has since the campaign began, this new data forecasts his edge narrowing to 27-20-19-9% over Sens. Bernie Sanders, Elizabeth Warren, and Mayor Pete Buttigieg. The margin now resembles the type of spreads we are seeing in national research studies.

South Carolina, the fourth voting state that will host a primary contest on February 29th, has 54 first ballot delegates. According to this survey, it appears that three of the candidates, Mr. Biden and Sens. Sanders and Warren, would each receive delegate votes for surpassing the 15% threshold.

Senate

Alabama: Former Attorney General and ex-Alabama US Senator Jeff Sessions (R) just released data from his internal OnMessage survey (12/3-5; 700 AL likely Republican primary voters; live interview). The ballot test results find Mr. Sessions placing first with 44% followed by former Auburn University head football coach Tommy Tuberville who records 21% support. Rep. Bradley Byrne (R-Mobile) has 14%, with former state Supreme Court Chief Judge and 2017 US Senate nominee Roy Moore attracting only 7%. State Rep. Arnold Mooney (R-Shelby County) gets just 1% in this survey.

A Cherry Communications survey (12/1-3; 600 AL likely Republican primary voters), while also finding Sessions and Tuberville advancing to an April 14th run-off from the March 3rd primary, projects a tighter spread between the two contenders, however. Cherry finds Sessions' advantage to only be 35-31% with the other candidates trailing significantly.

Georgia: Former Congressman Jack Kingston, who lost a close 2014 US Senate Republican primary to current Sen. David Perdue, had been among those who applied for the US Senate appointment. Before Gov. Brian Kemp (R) chose businesswoman Kelly Loeffler (R) to replace the resigning Sen. Johnny Isakson (R), Mr. Kingston indicated that he may run for the seat if he were not appointed. Late this week, however, Mr. Kingston took himself out of the Senate jungle special election primary by endorsing Ms. Loeffler. Rep. Doug Collins (R-Gainesville), however, is still a potential GOP candidate against the new Senator-designate.

Pennsylvania: One of the more difficult Senate seats Republicans will have to protect in 2022 lies in Pennsylvania. Now, there is a chance the race may be open. Incumbent Sen. Pat Toomey (R) confirmed yesterday that he is considering entering the open Governor's race in the next election cycle when incumbent Democrat Tom Wolf will be ineligible to seek re-election. Clearly, Sen. Toomey is the Republicans' strongest statewide candidate, but for which office he runs may now be open to conjecture.

House

CA-21: Already, we have a general election pairing in California. In 2018, Democrat T.J. Cox upset then-Rep. David Valadao (R) by a scant 826-vote margin, and now the men will square off again next year. No other candidate filed this week, so only the two of them will appear on the March 3rd jungle primary ballot. Regardless of how the pair finishes in the qualifying election, both will advance to the general under California's

primary election law.

Former Tulare County Democratic Party chairman Ruben Macareno announced that he would enter the race as a NPP candidate (No Party Preference), but he did not file as the deadline passed. Thus, we see the unusual one-on-one pairing for both the jungle primary and the general election. Another close contest is expected in this rural district that stretches from Fresno to Bakersfield.

FL-3: When north Florida GOP candidate Ted Yoho was first running for Congress in 2012, he made a pledge to serve only eight years if elected. Late this week, on a local radio program, Rep. Yoho announced that he is keeping his pledge and will not seek re-election next year. His move means that now 37 US House seats are open for their next election, 26 currently in the Republican column. Republicans are heavily favored to hold this north/central Florida seat anchored in the city of Gainesville.

NH-1: New Hampshire's eastern district electorate has defeated more incumbents since 2006 than other CD in the country. Therefore, former state Republican Party Vice-Chairman, ex-Dover City Councilman, and Air Force veteran Matt Mayberry (R) says he will soon launch a congressional challenge to freshman Rep. Chris Pappas (D-Manchester).

NJ-2: Freshman Rep. Jeff Van Drew (D-Dennis Township/Atlantic City), who is one of two Democrats not to support the impeachment inquiry against President Trump, is getting closer to having defend himself in a Democratic primary.

West Cape May Commissioner John Francis confirms he is seriously considering launching a campaign against the new Congressman, though his small community provides him a diminutive political base. Additionally, since this seat was in Republican hands since 1994 to the 2018 election, Rep. Van Drew can also expect serious GOP competition. The New Jersey candidate filing deadline is March 30th for the June 2nd primary.

NY-2: Saying she wants to devote her political time to helping President Trump win a second term, daughter-in-law Lara Trump said yesterday that she will not enter the Republican primary to succeed retiring Rep. Peter King (R-Seaford) on Long Island's 2nd District. State Assemblymen Anthony Garbarino (R-Bayport) and Mike LiPetri (R-Massapequa) are announced GOP candidates among others, however. Babylon Town Councilwoman Jackie Gordon appears to be the leading Democrat in the large candidate field. We expect a competitive general election to develop in this open district.

NC-2: Late last week, four-term Rep. George Holding (R-Raleigh) announced that he would not seek re-election, saying the new boundary configuration is "terrible" for his 2nd District and there is no path to victory for a Republican. Hillary Clinton, for example, scored a 60-36% margin within the new district lines. Two days after making his retirement public, Mr. Holding filed a new committee with the Federal Election Commission for the 2022 election cycle anticipating that the state will be awarded at least one new congressional district in 2020 reapportionment after the decennial census is complete.

TX-22: Non-profit executive Pierce Bush, the grandson of former President George H. W. Bush, announced that he will join the huge field of 17 Texas Republican candidates seeking the open congressional seat located south of Houston from which current Rep. Pete Olson (R-Sugar Land) is retiring.

The top tier candidates so far include businesswoman Kathaleen Wall and Ft. Bend County Sheriff Troy Nehls. Sri Preston Kulkarni, the 2018 Democratic nominee who captured 46% of the vote against Rep. Olson, is the odds-on favorite to win his party's nomination. The Texas primary is March 3rd. The Republicans are assured of heading to a run-off election on May 26th since it is clear that no candidate will capture a majority of the primary vote.

VA-2: Former Congressman Scott Taylor (R), who held the Virginia Beach-anchored 2nd District for one term before current Rep. Elaine Luria (D-Virginia Beach) unseated him in 2018, is reportedly planning to end his Senate bid against incumbent Mark Warner (D) and instead enter the House campaign to seek a re-match with Ms. Luria. The Democratic incumbent will again be favored in a changing district that is moving more toward the Democrats. Rep. Luria won the 2018 election with a tight 51-49% victory margin.

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