



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.

November 15, 2019

House approves Ex-Im Bank reform, reauthorization

The House of Representatives voted today to revamp the Export-Import Bank and extend its operating authority for ten years. [H.R. 4863](#), the United States Export Finance Agency Act of 2019, would rename the Export-Import Bank the US Export Finance Agency, would block any support to Chinese military or intelligence services, and make it easier for the agency to respond to predatory export financing by China. The bill passed roughly along party lines, 235-184, and President Trump has said he will veto it if it reaches his desk. It has no Senate companion.

House Financial Services Committee approves bills on debt collection, fair lending

The House Committee on Financial Services spent much of this week marking up legislation, and approved eight bills for floor action. The Committee voted unanimously to pass [H.R. 5003](#), which gives service members additional protections from threats by debt collectors; [H.R. 4403](#), which extends Fair Debt Collection protections to debts owed to federal agencies and clarifies its application to debt buyers; and [H.R. 2398](#), which would expand eligibility for the HUD-VASH program. Members voted along party lines on [H.R. 5021](#), which would limit debt collectors' ability to email or text consumers; [H.R. 5013](#), which would extend Fair Debt Collection protections to small business loans; [H.R. 5001](#), which would clarify that the Fair Debt Collection Practices Act applies to entities in non-judicial foreclosure proceedings; [H.R. 3948](#), which would clarify that the FDCPA applies to collectors of municipal debt; and [H.R. 3490](#), which would restrict the use of "confessions of judgment" in small business loans.

Amtrak will make trains more like Europe's and Japan's, CEO says

Amtrak CEO Richard Anderson [told a House Transportation subcommittee this week](#) that 2019 has been a "record-breaking year" for Amtrak in ridership, revenue, and revenue passenger miles. He defended recent decisions to limit food service and other high-end options, and said that they need to reposition Amtrak as a "modern mode of

transportation" similar to rail systems in Europe and Japan. As part of that effort, he said, they are in the midst of the largest "refleeting" in Amtrak history, replacing locomotives and trains around the country but particularly in the northeast corridor. New Acela train sets will start service in 2021, to be followed by new trains on the regional lines; these will be "modern units," Anderson said, without club cars or food service. Lawmakers and Anderson agreed on the need to improve on-time performance by enforcing Amtrak's preference rights over railway tracks; Anderson asked Congress to provide a private right of action for Amtrak to sue for these rights.

FDIC reports on shifts to nonbank lending, capital markets

The Federal Deposit Insurance Corporation (FDIC) published three reports this week describing the growing importance of nonbank lenders, particularly in residential mortgage and corporate lending. An [examination of bank and nonbank lending over the past 70 years](#) found that banks' share of the residential mortgage market dropped sharply between 1990 and 2010; banks now hold only 24% of 1-4 family residential mortgages and 33% of multifamily residential mortgages, though they make 58% of commercial mortgages. [Another report](#) described the rise and potential risks of record high levels of nonfinancial corporate debt issued through corporate bonds and leveraged loans, and [the third](#) looked at reasons for and risks incurred by the shift in mortgage origination activity to non-banks. All three reports will be part of the next FDIC Quarterly.

Fed reports high commercial debt levels, but low risk overall

The Federal Reserve Board published its annual [Financial Stability Report](#) today, and it's as boring as anyone could reasonably hope for. While asset prices in several markets remain high compared to income streams, and business borrowing is at historically high levels, household debt is relatively low; banks are strongly capitalized, and broker-dealers are better capitalized than ever; and the system's general vulnerability to runs is low. The Fed pointed to potential risks from Brexit, emerging markets, and "an unexpected and marked slowdown in U.S. economic growth," but "[the baseline outlook remains favorable](#)," as Chairman Jerome H. Powell told the Joint Economic Committee and House Budget Committee this week.

Visa, Mastercard will comply with FTC investigation of debit card routing

As Federal Trade Commission Chairman Joseph Simons [appeared before the House Judiciary Committee this week](#) to discuss the agency's oversight of online platforms and market power, representatives of both Visa and Mastercard said the companies will cooperate with FTC requests for information about whether and how they let retailers route certain mobile payments to alternative networks. The 2010 Durbin amendment limits the fees banks can collect for debit transactions, and requires that retailers have at least two options for routing them.

CFPB clarifies Reg Z requirements for "temporary" loan originators

The Consumer Financial Protection Bureau (CFPB) published an [interpretative rule](#) today that clarifies the obligations of lending organizations that hire loan originators with "temporary authority" to make loans under the SAFE Act. The SAFE Act of 2008 created a national system for licensing and registering loan originators, with individual states

conducting background checks and testing. Loan originators who leave one state-licensed mortgage company for another must apply for a new license, but may continue to do business while their application is pending. The CFPB's interpretive tool clarifies that the state, not the employer, is responsible for conducting the background check, testing, and any necessary training for these loan originators.

Confirmations, Nominations, Departures

- Rep. Peter King (R-NY), former Chairman of the House Committee on Homeland Security and current ranking member of its Subcommittee on Emergency Preparedness, announced that he will not seek a 15th term in Congress.
- The SEC has named Marie-Louise (Malou) Huth as Chief Counsel for its Division of Economic and Risk Analysis (DERA).

Next Week in Washington (and Elsewhere)

- Congress will leave for a 11-day Thanksgiving recess after it finishes its work next Thursday, November 21. The Senate Banking Committee will vote on reauthorization of the Terrorism Risk Insurance program on Thursday morning.
- **November 19 at 10:00 a.m.** House Committee on Financial Services holds a hearing on "[America for Sale? An Examination of the Practices of Private Funds.](#)"
- **November 19 at 10:00 a.m.** Senate Commission on Security and Cooperation in Europe and the House Foreign Affairs Subcommittee on Europe, Eurasia, Energy, and the Environment hold a joint hearing on "[The Importance of the Open Skies Treaty.](#)"
- **November 20 at 10:00 a.m.** House Financial Services Subcommittee on Consumer Protection and Financial Institutions holds a hearing on "[An Examination of Regulators' Efforts to Preserve and Promote Minority Financial Institutions.](#)"
- **November 20 at 10:00 a.m.** Senate Committee on Banking, Housing, and Urban Affairs will vote on [S. 2877](#), to reauthorize the Terrorism Risk Insurance Act, and will hold [a hearing to examine the nominations](#) of Mitchell A. Silk to serve as Assistant Secretary of the Treasury; Brian D. Montgomery to serve as Deputy Secretary, and David Carey Woll, Jr. and John Bobbitt to serve as Assistant Secretaries of the Department of Housing and Urban Development; and Peter J. Coniglio to serve as Inspector General of the Export-Import Bank.
- **November 20 at 2:00 p.m.** House Financial Services Subcommittee on Housing, Community Development and Insurance holds a hearing on "[Safe and Decent? Examining the Current State of Residents' Health and Safety in HUD Housing.](#)"
- **November 21 at 9:30 a.m.** House Financial Services Task Force on Financial Technology holds a hearing on "[Banking on Your Data: the Role of Big Data in Financial Services.](#)"

President

Michael Bloomberg: The Arkansas candidate filing deadline expired on November 11th, and former New York City Mayor Michael Bloomberg, as he similarly did at Alabama's deadline, filed to enter the state's presidential primary. This does not necessarily mean he will enter the race, but he is now eligible to qualify for a ballot position in the two states.

Ex-Gov. Deval Patrick: Long before the presidential election cycle began, then-Massachusetts Gov. Deval Patrick, thought to be a prospective presidential candidate, publicly stated his intention not to run. Looking at the current race status, Mr. Patrick reconsidered his decision and now says he will enter the Democratic race. It seems a long shot at best, especially with Massachusetts Sen. Elizabeth Warren already being one of the top three contenders, but we have seen similarly formidable odds not stopping other potential candidates.

California: A new Capitol Weekly research organization survey (11/1-13; 689 likely Democratic primary voters) finds that four candidates would qualify for delegate apportionment if the primary election were today. According to the Capitol Weekly results, Sen. Elizabeth Warren (D-MA) leads with 27% support, while Sen. Bernie Sanders (I-VT), former Vice President Joe Biden, and Mayor Pete Buttigieg all trail with 21, 18, and 14%, respectively. Home state Sen. Kamala Harris only draws 6% within her own constituency.

Iowa: The new Monmouth University survey of likely Iowa Caucus attendees (11/7-11; 451 IA likely Democratic caucus attendees) projects South Bend Mayor Pete Buttigieg to be holding his first lead in presidential polling. The Cygnal data finds Mr. Buttigieg posting 22% preference. Former Vice President Joe Biden follows with 19%, Sen. Elizabeth Warren (D-MA) records 18%, and Sen. Bernie Sanders (I-VT) has 13% support.

Nevada: Fox News released their new Nevada Democratic caucus survey (11/10-13; 627 NV likely Democratic caucus attendees) and found former Vice President Joe Biden holding a significant advantage over Sens. Elizabeth Warren (D-MA) and Bernie Sanders (I-VT), a pattern that appears throughout the South. This data shows Mr. Biden leading his two major opponents, 24-18-18%. Mayor Pete Buttigieg, while making strides in Iowa and in some national polls, fails to reach double-digits in Nevada. He posts only 8 percent.

In terms of the delegate count, because the top three candidates are exceeding 15% of the statewide vote, Mr. Biden and Sens. Warren and Sanders would qualify for delegate apportionment in the Silver State.

New Hampshire: Quinnipiac University is reporting the results of their latest New Hampshire Democratic presidential primary survey (11/6-10; 1,134 NH likely Democratic primary voters) and it appears a legitimate four-way race is evolving in the Granite State. The numerical totals show the four top candidates all within six percentage points, as former Vice President Joe Biden leads Sen. Elizabeth Warren (D-MA), Mayor Pete Buttigieg, and

Sen. Bernie Sanders (I-VT), 20-16-15-14%, respectively. The results also might qualify US Rep. Tulsi Gabbard (D-HI) for the December debate since she notched a 6% finish in a First Four state from a designated pollster.

North Carolina: Fox News also surveyed the likely Democratic primary voters in the Tar Heel State of North Carolina during the same period in which they were testing the Nevada electorate. The survey (11/10-13; 669 NC likely Democratic primary voters) posts former Vice President Joe Biden to a significant 37-15-14% advantage consecutively over Sens. Elizabeth Warren and Bernie Sanders. Here, too, Mayor Pete Buttigieg fares poorly, capturing only 6% preference.

Senate

Alabama: The most interesting development surrounding Alabama's candidate filing deadline was former Senator and US Attorney General Jeff Sessions filing to run for the seat he resigned to accept his appointment in the Trump Administration. The first poll released after his formal announcement was taken well before Mr. Sessions' declaration but included him in the field of candidates since it appeared he was making preliminary moves to enter.

WPA Intelligence, polling for the Club for Growth political organization (10/29-31; 511 AL likely Republican primary voters), finds Mr. Sessions leading the group of candidates with 36%, followed by former Auburn University head football coach Tommy Tuberville, who posts 23%. US Rep. Bradley Byrne (R-Mobile) and ex-Alabama state Supreme Court Chief Judge and 2017 special election US Senate nominee Roy Moore are next, both drawing 11% preference. Secretary of State John Merrill pulls only 6% support. The results suggest a highly competitive primary with Mr. Sessions in good position to qualify for a run-off position.

Arkansas: Fayetteville Democrat and former congressional candidate Josh Mahony is already an ex-Senate candidate. Mr. Mahony filed to challenge Sen. Tom Cotton (R) and was the only Democrat to do so. But, just hours after submitting his papers, Mr. Mahony announced he was withdrawing due to family issues. Before he exited, the Arkansas Republican Party filed an ethics complaint against Mr. Mahony, which may have played a role in his departure. With no qualified Democratic candidate, the Arkansas Democratic Party members will convene and choose a replacement nominee. The Arkansas primary is March 3rd.

Mississippi: This week, former US Agriculture Secretary and Mississippi Congressman Mike Espy (D), who lost to Sen. Cindy Hyde-Smith in the 2018 special election, announced that he will return for a re-match. It is likely he will sail through the Democratic nomination process but again face an uphill climb against the Republican Senator. Additionally, Josh Randle, the former CEO of the Miss America Organization, is forming an exploratory committee to test his chances against Sen. Hyde-Smith in the Republican primary.

House

Alabama: The Alabama 2020 candidate filing deadline names the slate of contenders for the state's seven US House districts. In the open seats, District 1 and 2, we see five Republican candidates and three Democrats filing in the former, but the GOP nomination battle will almost assuredly produce the successor to Rep. Bradley Byrne (R-Mobile) who is leaving the House to run for the Senate. The five Republican candidates include three major contenders, former state Sen. Bill Hightower, state Rep. Curt Pringle (R-Mobile), and Mobile County Commissioner Jerry Carl.

In retiring Rep. Martha Roby's (R-Montgomery) 2nd District, six Republicans and two Democrats filed. Here, too, the Republican primary is virtually the election. On paper, the favorite should be former state Attorney General Troy King. Ex-state Rep. Barry Moore is returning to run again, but he did not fare well in his 2018 Republican primary challenge to Rep. Roby (19% in a field of five candidates).

Reps. Mike Rogers (R-Anniston) and Robert Aderholt (R-Haleyville) drew minor Democratic opposition in their respective districts. Rep. Mo Brooks (R-Huntsville) faces only a Republican primary opponent. Reps. Gary Palmer (R-Hoover) and Terri Sewell (D-Birmingham) both face no major party opposition.

CA-25: This week, former Congressman Steve Knight (R), who lost his seat to Democrat Katie Hill last November only to see her resign the first day of this November, announced that he will enter the special election field in an attempt to regain his former position. Gov. Gavin Newsom (D) has yet to schedule the special election that will likely involve Super Tuesday, March 3rd as either the special primary or general date. Several Republicans are expected to run, while Democrats are attempting to coalesce behind state Assemblywoman Christy Smith (D-Newhall/ Santa Clarita). The 25th District is a competitive seat.

IL-3: Illinois Rep. Dan Lipinski (D-Western Springs) fought off a difficult 2018 Democratic primary challenge against media consultant Marie Newman in a race that was decided by just two percentage points. Ms. Newman is back for a re-match, and yesterday appears to have become stronger.

Attorney Abe Newman, another Democratic candidate opposing Rep. Lipinski, yesterday ended his effort and endorsed Ms. Newman. Another minor candidate, wedding photographer Rush Darwish, remains in the race, but the complete field will become known when candidate filing concludes on December 2nd. At this point, however, it appears we will effectively see a head-to-head battle between Rep. Lipinski and Ms. Newman. The Illinois primary is March 17th.

MD-7: Despite soon undergoing a mastectomy procedure, now former Maryland Democratic Party chair Maya Rockey Moore Cummings, widow of the late Congressman Elijah Cummings (D-Baltimore), says she will become a candidate in the special election to succeed her husband. Already in the Democratic race are former Congressman and NAACP President Kweisi Mfume and state House Majority Whip Talmadge Branch (D-Baltimore) along with several minor candidates.

The Democratic primary will determine Mr. Cummings' successor in what is a very safe seat for the party. The special election primary is scheduled for February 4th, with the special general concurrent with the regular state primary on April 28th.

NY-2: Fourteen-term New York Congressman Peter King (R-Seaford/Islip) announced yesterday morning that he will not seek re-election next year. Mr. King, a former chairman of the House Homeland Security Committee when the Republicans held the majority, was

re-elected with just over 53% of the vote in 2018 against a Democratic opponent who spent just under \$2 million for her campaign. The Congressman has averaged 55.4% over his long career through various iterations of the 2nd or 3rd District, as it was previously numbered.

Mr. King's retirement now means 32 seats will be open in the next election, including four that will go to special election before the regular cycle concludes. A crowded 2nd District candidate field is expected to form in both parties. The seat generally votes in a lean Republican fashion. President Trump carried the seat, 53-44%, but neither Mitt Romney nor John McCain won here during their respective presidential campaigns.

Governor

Kentucky: Despite threatening to force further vote counting because the November 5th election result was so close, Gov. Matt Bevin (R) conceded defeat on Thursday to Attorney General Andy Beshear (D). Through the canvassing process, Mr. Beshear's 5,086 vote lead from more than 1.4 million ballots cast was sustained, which was an expected conclusion.

Though the election was extremely close, a raw vote margin of greater than 5,000 is rarely overturned. Unless a major machine or counting error occurred, and there is no evidence of such, even a margin of this small size would typically hold through the course of a re-count. Therefore, Governor-Elect Beshear will take office in Kentucky next month.

Louisiana: All polling finds a tight Louisiana Governor's run-off election to be decided this Saturday, November 16th. Gov. John Bel Edwards (D) and Baton Rouge developer Eddie Rispone (R) are in a virtual tie heading into Election Day, though the early voting statistics favor the Democrats to a greater degree than in the jungle primary when 52% of the voters supported a Republican candidate. In the jungle primary, Gov. Edwards managed to earn just 46.6% of the vote, thus necessitating this secondary election.

Utah: A major Republican gubernatorial primary will occur in Utah next year as former Gov. Jon Huntsman, as expected, declared his candidacy for Governor, a position he held from 2005 to his resignation in 2009 when President Obama appointed him US Ambassador to China. Mr. Huntsman will face Lt. Gov. Spencer Cox in the June 23rd Republican primary election.

The eventual GOP nominee will almost assuredly replace Gov. Gary Herbert (R), who has already endorsed Mr. Cox and chose not to seek a fourth term. Mr. Herbert, then Lt. Governor, replaced Mr. Huntsman when the latter man resigned the position to accept the China appointment. Most recently, Mr. Huntsman resigned as President Trump's Ambassador to Russia.

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