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Locke Lord QuickStudy: The End of the Road for Chevron

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In a 6-3 decision issued June 28, 2024, the U.S. Supreme Court overruled *Chevron USA, Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which long stood for the proposition that courts are to defer to an agency's interpretation of the law when the law is silent or ambiguous with respect to the specific issue at hand.

In *Loper Bright Enterprises v. Raimondo*, No. 22-1219, 2024 WL 3208360 (U.S. June 28, 2024), the Supreme Court held that the Administrative Procedure Act requires courts to exercise independent judgment in deciding whether an agency has acted within its statutory authority, and courts may not defer to an agency interpretation of the law simply because a statute is ambiguous.

While the decision will impact many industries, we anticipate that it will impact the banking industry more than others. Several entities oversee and govern federally regulated banks and loan servicers, including the Securities and Exchange Commission, Federal Reserve Board, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Consumer Financial Protection Bureau.

The impact of this decision on each of these entities will vary, but the end of *Chevron* deference is likely to lead to new legal challenges to federal regulations, including government agencies' ability to create, issue, and enforce their regulations.

Banking industry regulators, such as the Consumer Financial Protection Bureau, have long come under fire for their aggressive regulation of financial institutions. This decision is expected to increase litigation against regulators such as the CFPB. While the decision does not immediately affect regulations currently in place, regulators can expect to see an increase in lawsuits challenging the interpretation of existing regulations, and even the regulations themselves.

Financial institutions also benefit from regulatory safe harbors – by using recommended forms and servicing loans in accordance with written guidelines. This decision may open the door to challenges by consumers arguing that compliance with such regulations does not automatically shield financial institutions from liability.

Banks and loan servicers must continue to take government regulation seriously. But sweeping and aggressive

attacks on regulations promulgated by banking watchdogs are expected and may alter the compliance landscape in the not-too-distant future.

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