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## Examining Potential Impacts to Federally Regulated Entities Should Supreme Court Overturn Chevron Deference Doctrine

On January 17, the United States Supreme Court heard oral arguments in *Loper Bright Enterprises v. Raimondo* and *Relentless, Inc v. Department of Commerce*, two cases involving challenges to the scope of the *Chevron* deference doctrine, a principle established in 1977 in the landmark *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.* and which has underpinned the balance of power between the judiciary and regulatory agencies in the decades since. Although the *Chevron* deference doctrine has provided measurable predictability to federal agencies' administration of federal statutes for just under fifty years, several of the Justices presiding over the January 17 oral arguments signaled a willingness to limit the doctrine – if not dispose of it altogether. Given the doctrine's foundational importance in administrative law, any decision narrowing or overturning *Chevron* will have an immediate impact on federally regulated industries and businesses' efforts to comply with federal law. This post will provide a brief overview of the *Chevron* deference doctrine and examine potential consequences of a Supreme Court decision that limits same.

The 1977 *Chevron* decision established a two-step process for courts to apply when evaluating federal agency interpretations of ambiguous statutes. Initially, the court determines if Congress has explicitly addressed the issue in the statute. If so, that interpretation prevails. However, if the statute is ambiguous, the court assesses whether the agency's interpretation is reasonable. If deemed reasonable, the court defers to the agency. This deferential approach (1) acknowledges agencies' expertise in their respective domains; (2) provides a consistent framework for courts to follow when reviewing agency interpretations (and thus contributes to predictability in administrative law); (3) enables agencies to efficiently make and implement policies without excessive judicial interference (thus streamlining governmental functions); and (4) permits agencies to respond more swiftly to changing circumstances or new information within their field.

A Supreme Court decision that limits or otherwise scraps *Chevron* may have an immediate impact on current federal regulations and lasting effects on federal agencies' future administration of federal statutes. Specifically, if the Supreme Court overturned or limited *Chevron*, regulated entities might swiftly challenge long-settled agency interpretations of federal statutes that courts previously deemed "reasonable" and to which they granted deference under the *Chevron* regime. Assuming at least some of those challenges are successful, regulated entities will be subject to new, controlling interpretations of federal statutes, which will impact how those entities remain in compliance with relevant federal regulations.

**Contacts**

**Maggie Ebert**  
Omaha  
402.231.8943  
[maggie.ebert@kutakrock.com](mailto:maggie.ebert@kutakrock.com)

**Jonathan Baker**  
Omaha  
402.231.8741  
[jonathan.baker@kutakrock.com](mailto:jonathan.baker@kutakrock.com)

**Henry Dobson**  
Omaha  
402.346.6000  
[henry.dobson@kutakrock.com](mailto:henry.dobson@kutakrock.com)

Furthermore, a decision limiting or overturning *Chevron* will permit different federal courts to interpret the same federal statute differently. Whereas all federal courts were instructed to defer to an agency's reasonable interpretation of a federal statute under *Chevron*, in a post-*Chevron* world, federal courts will no longer be required to afford such uniform deference under a guiding principle; accordingly, two different courts might interpret the same statute differently. For regulated entities that conduct business in different jurisdictions, this means that compliance with a federal regulation might require simultaneous adherence to disparate standards, which could cause headaches for corporate compliance departments – at least until any discrepancies in judicial interpretation of the underlying federal statute are resolved by the Supreme Court.

In any event, federally regulated entities and their compliance departments should closely follow how *Loper* and *Relentless* unfold, as the decisions that emerge from those cases may ultimately lead to a dramatic upheaval of the regulatory environment in almost every regulated industry.

