



## With the End of Chevron Deference, Doors Open for Financial Institutions to Challenge Treasury

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### ARTICLE SUMMARY

The 1984 Supreme Court decision in *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.* established the 'Chevron deference' doctrine, which required courts to defer to administrative agency interpretations of ambiguous statutes if they were reasonable. This doctrine significantly impacted the financial services sector, making it difficult to challenge the US Department of the Treasury's actions, such as sanctions and penalties. Further, the USA PATRIOT Act of 2001, passed after the 9/11 attacks, amended the Bank Secrecy Act (BSA) to enforce robust anti-money laundering (AML) and countering the financing of terrorism (CFT) measures, deputizing financial institutions (FIs) as the front line of compliance. This has imposed significant costs on FIs, both in terms of compliance infrastructure and hefty penalties for violations.

The Supreme Court's June 2024 decision in *Loper Bright Enterprises v. Raimondo* overturned Chevron, mandating that courts exercise independent judgment in statutory interpretation. This shift opens the door to broader scrutiny of the Treasury's authority and its rules. The end of Chevron deference is seen as a crucial step towards addressing these issues, ensuring that government agencies do not exploit financial institutions or infringe on individual rights. That decision was tested and supported in the Tornado Cash case when the Fifth Circuit Court of Appeal concluded that OFAC overstepped its authority in sanctioning Tornado Cash and "blocking" smart contracts under the International Emergency Economic Powers Act (IEEPA).

Continued litigation against the Treasury is expected to bring about much-needed changes and level the playing field for FIs and individuals alike.

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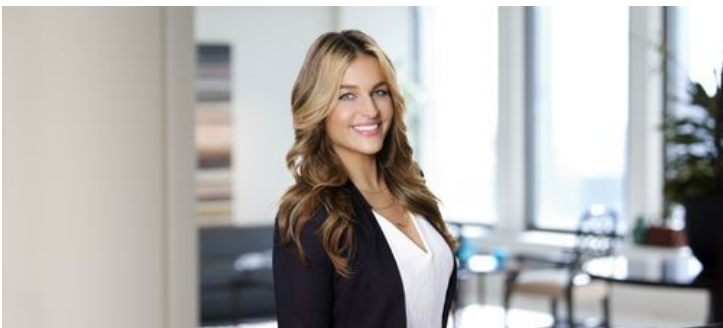
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