



# Ending *Chevron* Deference

## Impacts on Financial Markets and Consumer Protection

Center for American Progress January 10, 2024

Regulations that protect Americans from financial market fraudsters and predators could be on the chopping block if the U.S. Supreme Court overturns the *Chevron* doctrine. This could prevent agencies such as the Securities and Exchange Commission (SEC) and the Consumer Financial Protection Bureau (CFPB) from enforcing regulations against bad actors preying on everyday Americans' finances and creating new regulations to combat them as their fraudulent tactics evolve. The following highlights some of the benefits that financial regulations provide to everyday Americans, and what the Supreme Court is putting at risk.

### **Benefits of financial regulators to everyday Americans:**

- Financial regulators help protect everyday Americans from being taken advantage of by companies seeking to raise capital from them and by financial institutions. They also help ensure that the financial system on which the U.S. economy depends is stable. Eliminating *Chevron* deference would allow judges to more easily overturn regulations, creating uncertainty that would decrease economic output.<sup>1</sup>
- SEC regulations help provide stability and certainty to the capital markets where millions of Americans invest their retirement savings by ensuring these markets are fair and efficient and that investment advisers adhere to fiduciary standards when investing the hard-earned savings of their customers.<sup>2</sup>
- Bank regulators—the Federal Reserve, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corp.—establish tough rules that rein in banks' risky behaviors, protect the financial system that U.S. households and businesses rely upon, and safeguard everyday Americans' deposits.<sup>3</sup>
- The CFPB enforces consumer protection statutes that prevent discrimination in lending, provide enhanced safeguards for service members, and promote informed access to financial products. Since opening its doors in 2011, the CFPB has established more than 100 rules and regulations that have allowed the agency to respond to more than 4 million consumer complaints and return \$17.5 billion directly to wronged consumers targeted by financial predators.<sup>4</sup>

## Regulations at stake:

- **Rules requiring companies to disclose investment risks:** As climate disasters become more severe, many Americans seek to protect their retirement savings from investments in companies that face climate risks.<sup>5</sup> The SEC has proposed a rule to require public companies to disclose climate risks and is considering another rule to prevent investment funds and advisers handling trillions of dollars in worker retirement savings and other assets from misleading investors about their consideration of climate risk, workforce practices, and other risk factors.<sup>6</sup> Eliminating the *Chevron* doctrine will make these rules more susceptible to court challenge, could affect the way billions of dollars are invested by allowing money to flow to riskier firms, and could prevent investors from receiving accurate information about these risks.
- **Rules to prevent another financial crisis:** Following the financial crisis of 2007–2008, Congress directed the bank regulators to implement a series of rules aimed at making the banking system that Americans rely on safer and fairer.<sup>7</sup> The Fed is currently working on a rule that would require bank owners to put up more of their own money to cover potential failure and avoid having taxpayers bail them out.<sup>8</sup> Eliminating *Chevron* would make it harder for the Fed to enact regulations that protect consumers and businesses from risky bank practices.
- **Rules to protect consumers from junk fees:** Junk fees are hidden or excessive fees that companies sometimes charge consumers.<sup>9</sup> In 2023, the CFPB proposed a rule that would limit credit card late fees to \$8, which could save Americans a total of \$9 billion per year.<sup>10</sup> It has also updated guidance to prevent banks from charging junk fees for basic customer service.<sup>11</sup> Eliminating *Chevron* would make this and many other CFPB consumer protection regulations vulnerable to being overturned.
- **Rules created under the Dodd-Frank Wall Street Reform and Consumer Protection Act:** The Board of Governors of the Federal Reserve is given deference to create rules regarding the maximum fees charged for credit and debit card transactions.<sup>12</sup> Eliminating *Chevron* would make it harder for the board to enact regulations that protect consumers and businesses from excessive costs imposed by credit card companies.

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## Endnotes

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- 3 Michael Schmidt, "Bank Regulators: Who They Are and What They Do," Investopedia, December 6, 2021, available at <https://www.investopedia.com/articles/economics/09/financial-regulatory-body.asp>.
- 4 Lillith Fellowes-Granda and others, "CFPB v. CFSA: How the Supreme Court Could Harm Consumers and Financial Markets" (Washington: Center for American Progress, 2023), available at <https://www.americanprogress.org/article/cfpb-v-cfsa-how-the-supreme-court-could-harm-consumers-and-financial-markets/>.
- 5 National Oceanic and Atmospheric Administration National Centers for Environmental Information, "Billion-Dollar Weather and Climate Disasters," available at <https://www.ncei.noaa.gov/access/billions/> (last accessed January 2024).
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- 8 Board of Governors of the Federal Reserve System, "Proposal to require certain large banking organizations to issue minimum amounts of loss-absorbing long-term debt" (Washington: 2023), available at <https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20230829a3.pdf>.
- 9 Consumer Financial Protection Bureau, "Junk fees," available at <https://www.consumerfinance.gov/rules-policy/junk-fees/> (last accessed January 2024).
- 10 Consumer Financial Protection Bureau, "CFPB Proposes Rule to Rein in Excessive Credit Card Late Fees," Press release, February 1, 2023, available at <https://www.consumerfinance.gov/about-us/newsroom/cfpb-proposes-rule-to-rein-in-excessive-credit-card-late-fees/>.
- 11 Consumer Financial Protection Bureau, "CFPB Issues Guidance to Halt Large Banks from Charging Illegal Junk Fees for Basic Customer Service," Press release, October 11, 2023, available at <https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-guidance-to-halt-large-banks-from-charging-illegal-junk-fees-for-basic-customer-service/>.
- 12 NACS v. Board of Governors of the Federal Reserve, 746 F.3d 74 (D.D.C. 2014), available at [https://www.bloomberglaw.com/public/desktop/document/NACSetalvFRSDocketNo1305270DCCirAug232013CourtDocket?doc\\_id=X1B7T4A34M69AK8OM7E8INAAQ8E&utm\\_medium=ANP&utm\\_source=ANT](https://www.bloomberglaw.com/public/desktop/document/NACSetalvFRSDocketNo1305270DCCirAug232013CourtDocket?doc_id=X1B7T4A34M69AK8OM7E8INAAQ8E&utm_medium=ANP&utm_source=ANT).