Blogs
May 25, 2023

Here's an excerpt from **this Client Update** penned by Michael Huston, Eric Wolff, and Stephanie Olson:

"The Supreme Court of the United States has agreed to review a case taking direct aim at "overregulation" by federal administrative agencies. Any client or business that routinely deals with federal administrative agencies, especially those that have experienced administrative overreach, should monitor the case and consider weighing in.

For nearly 40 years, judicial review of federal agency statutory interpretation has been governed by the *Chevron* doctrine derived from *Chevron, U.S.A., Inc. v. Natural Resources Defense Council, Inc.*[1]: if the statute is clear, then courts will apply the clear text; if it is "ambiguous," then the court will defer to a reasonable agency

interpretation. Over the last 20 or more years, however, the Supreme Court has rolled back the broadest applications of that framework, and even stopped citing it in cases where it would apply.

Some Justices have advocated for *Chevron*'s reversal, describing it as an abdication to the executive branch of the core judicial responsibility to say what statutes mean. Until now, however, the core of *Chevron* has not been overruled. Lower courts are, therefore, still required to determine whether a statute administered by a federal agency is "clear" or "ambiguous," and if it is "ambiguous," to accept an agency's reasonable interpretation."

Explore more in

Corporate Law
Blog series

Public Chatter

Public Chatter provides practical guidance—and the latest developments—to those grappling with public company securities law and corporate governance issues, through content developed from an in-house perspective.

View the blog