



Supreme Court Issues Two Rulings Significantly Impacting the SEC's Enforcement Authority

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Late last week, the Supreme Court issued two rulings that will have dramatic implications for the SEC's enforcement authority and the broader administrative landscape.

First, in [SEC v. Jarkesy](#), the Court ruled that, under the Seventh Amendment, defendants facing civil penalties from the SEC for securities fraud are entitled to a jury trial. The case concerned a provision of the Dodd-Frank Act, in which Congress permitted the SEC to adjudicate securities fraud matters internally, rather than in federal court. In *Jarkesy*, the SEC prosecuted a hedge fund manager and its investment advisor in-house for allegedly lying to investors to collect larger management fees. The ensuing administrative adjudication resulted in a \$300,000 civil penalty against the defendants.

After the adjudication, the defendants sued the SEC in federal court, arguing that they had a jury-trial right under the Seventh Amendment of the U.S. Constitution. The Fifth Circuit agreed, and the Supreme Court granted certiorari to resolve whether administrative proceedings for securities fraud resulting in civil penalties require a jury trial.

In holding that they do, the Court stressed that the SEC sought prototypical legal remedies: monetary civil penalties that sought to deter future conduct. The Court also highlighted that securities fraud bears a close resemblance to common-law fraud, bolstering the conclusion that federal courts are the proper fora for these disputes. In addition, the Court rejected the argument that administrative agencies can internally prosecute defendants for statutory violations created by Congress. The Court explained that Congress cannot subvert the Seventh Amendment's jury-trial right by dressing up common-law fraud as a statutory violation.

The *Jarkesy* decision will make securities-fraud prosecutions markedly more difficult for the SEC. The SEC will now have to bring

securities-fraud actions seeking civil penalties in federal courts, which impose higher evidentiary standards than those used internally by the SEC. The *Jarkesy* decision also will likely impact other agencies that use in-house adjudications for fraud prosecutions, notably the Commodity Futures Trading Commission.

The second ruling stems from two cases, *Relentless v. Department of Commerce and Loper Bright Enterprises v. Raimondo*, that asked the Court to overrule its watershed 1984 holding in *Chevron v. Natural Resources Defense Council*. The *Chevron* doctrine permitted courts to adopt agencies' interpretations of ambiguous originating statutes so long as those interpretations were reasonable. The doctrine formed the backbone of many key administrative interpretations, including the SEC's interpretation of § 10(b) of the Securities Exchange Act of 1934.

The Court overruled *Chevron*. It reasoned that the *Chevron* doctrine requires courts to relinquish interpretative statutory authority to the Executive Branch, thus violating the separation of powers. The Court noted that administrative agencies have "no special competence in resolving statutory ambiguities," and that the Judiciary is the branch of government best equipped to interpret the law. Though the Court overruled *Chevron*, it did not specifically overrule the cases employing the *Chevron* doctrine – leaving those decisions open to challenge in the future.

The Court's decision will have broad implications for the administrative state. For one, it opens up several agency interpretations to challenge under the theory that they are unreasonable and not the product of appropriate judicial oversight. Because courts no longer have to reflexively adopt administrative statutory interpretations, courts will likely be more willing to scrutinize agency decision-making and adopt their own interpretations.

For another, the Court's rejection of *Chevron* will likely lead to less uniformity in interpreting statutes like the Exchange Act. Because the Judiciary can interpret statutes without deference to administrative interpretations, courts around the country will likely come to different conclusions. Regulated entities will need to be

increasingly vigilant for new judicial interpretations of relevant statutes.

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