

## Understanding the Loper Bright Decision: A Guide for ERISA Professionals

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January 2025

### The Impact of *Loper Bright Enterprises v. Raimondo* on ERISA

In a landmark decision issued in 2023, the U.S. Supreme Court ruled in *Loper Bright Enterprises v. Raimondo*, a case that focused on the scope of the Secretary of Commerce's authority to impose fishing regulations. While the case itself was centered on the fishing industry, its decision has broader implications for regulatory powers across various sectors, including employee benefits law under the Employee Retirement Income Security Act (ERISA). This ruling signals a shift in the way courts might approach administrative power, particularly in relation to the regulatory schemes that underlie ERISA lawsuits.

### Background of *Loper Bright Enterprises v. Raimondo*

The *Loper Bright* case arose from a challenge to a 2018 rule issued by the National Marine Fisheries Service (NMFS) under the Department of Commerce, which required certain fishing vessels to pay for observers onboard to monitor compliance with regulations. These observers would collect data to ensure that fishing practices were sustainable and did not harm endangered species. The fishing companies argued that this mandate was an overreach by the federal government and violated their rights under the Administrative Procedure Act (APA).

The Supreme Court's decision in *Loper Bright* was significant because it marked a shift in the Court's stance on the Chevron Deference, the legal principle that compels courts to defer to an agency's interpretation of an ambiguous statute when the agency is empowered to administer it. In a 6-3 decision, the Court overruled a long-standing precedent that supported the Chevron Deference in favor of a more limited role for administrative agencies. The Court emphasized that, in instances where the statutory language is ambiguous, courts should not automatically defer to an agency's regulatory decisions but should instead independently assess whether those decisions align with Congress's original intent.

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## ERISA and Its Regulatory Landscape

The Employee Retirement Income Security Act of 1974 (ERISA) is a federal law designed to protect the interests of employee benefit plan participants by setting standards for plan administration, reporting and fiduciary duties. The law, enforced by the Department of Labor (DOL) and the Treasury Department, regulates a wide range of issues concerning pension plans, defined contribution retirement plans, health benefits and other employee welfare plans.

ERISA provides a complex regulatory framework, often requiring interpretation by administrative agencies. For example, the DOL issues regulations on fiduciary standards, disclosure requirements and plan governance. Additionally, the Internal Revenue Service (IRS) provides guidelines on tax qualification for retirement plans. For years, courts have applied a form of judicial deference to these agencies' interpretations, particularly when addressing the intricacies of ERISA compliance. The regulatory authority under ERISA relies heavily on administrative rules and interpretive guidelines issued by these agencies, and this is where the *Loper Bright* ruling has potentially significant implications.

## Key Implications of Loper Bright Enterprises for ERISA Lawsuits

1. **Reduced Deference to Administrative Interpretations:** One of the most profound impacts of the *Loper Bright* ruling is the potential narrowing of the Chevron Deference. The *Loper Bright* decision indicates that courts may now assume a more proactive role in interpreting regulatory frameworks, rather than relying on an agency's interpretation of ambiguous statutory language. This includes those regulations governing ERISA.

For example, if the Department of Labor issues an ERISA-related rule that employers or plan sponsors argue is inconsistent with the text or purpose of ERISA, courts may now be less inclined to defer to the DOL's interpretation. This could lead to more frequent challenges to DOL-issued regulations or interpretations, increasing the number of ERISA lawsuits in the process.

2. **Increased Litigation Over Regulatory Ambiguity:** The Supreme Court's ruling may lead to more litigation surrounding the scope and implementation of ERISA regulations. If courts are no longer bound by the Chevron Deference, there could be a rise in challenges to the regulatory authority of agencies like the DOL or IRS. This could be particularly significant in cases where agencies issue new interpretations of fiduciary standards, reporting requirements or plan administration.
3. **Shift Toward Judicial Interpretation:** As courts become more empowered to interpret ambiguous provisions of statutes like ERISA, the outcomes of ERISA lawsuits could become more unpredictable. Prior to *Loper Bright*, courts often deferred to agencies with specialized knowledge in administering ERISA's complex framework. Now, the Court's new stance may lead to a greater

variety of legal interpretations, with more weight given to judicial reasoning over agency expertise. This could result in greater inconsistency across different judicial circuits as lower courts develop their own interpretations of ERISA and related regulations.

4. **Increased Focus on Statutory Intent:** One key aspect of the *Loper Bright* decision was the Court's emphasis on the intent of Congress when interpreting statutes. Under this framework, courts may focus more heavily on the legislative history and original purposes behind ERISA's provisions. ERISA lawsuits could increasingly turn on arguments regarding Congressional intent and the underlying goals of employee benefits protection, especially if regulatory interpretations conflict with what courts determine to be Congress's original intent.
5. **Impact on ERISA Preemption:** Another significant area impacted by the *Loper Bright* decision could be ERISA's preemption provision, which broadly preempts state laws that relate to employee benefit plans. Historically, courts have deferred to the DOL's interpretation of ERISA's preemption clause, but with a reduced focus on agency expertise, courts may become more active in interpreting ERISA's preemption provisions independently. This could lead to a shift in the balance between federal and state regulation of employee benefit plans.
6. **Uncertainty for Employers and Plan Sponsors:** For employers and Plan Sponsors, the uncertainty generated by the *Loper Bright* decision could lead to more conservative approaches to ERISA compliance. Without clear deference to agency interpretations, employers may become more cautious in adhering to evolving regulatory standards, fearing the consequences of potential legal challenges.

## An Uncertain Legal Landscape

The Supreme Court's ruling in *Loper Bright Enterprises v. Raimondo* marks a significant shift in the balance of power between courts and administrative agencies. As the Court curtails its support for the Chevron Deference, it may lead to a rise in ERISA lawsuits challenging the regulatory authority of agencies like the DOL and the IRS. This ruling could usher in a new era of judicial activism and uncertainty, as courts take a more hands-on role in interpreting the complex regulatory framework that governs employee benefit plans. As ERISA-related regulations evolve, employers, fiduciary advisors and investment consultants may find themselves navigating a more litigious and unpredictable legal landscape.

For more information on navigating an evolving and complex regulatory, legislative and litigation environment, please [contact](#) any of the professionals at Fiducient Advisors.

## About the Author



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Greg services institutional clients by providing counsel and guidance on portfolio design, asset allocation, manager selection, investment policy statements and performance monitoring. He is also a member of the Recordkeeper Oversight Council. Greg joined Fiduciary Investment Advisors, LLC in 2017, which combined with Fiducient Advisors in 2020.

Before joining the firm, Greg worked in both institutional and individual wealth management helping create positive retirement outcomes for plan sponsors and plan participants. He received his BA from the University of Connecticut and is a ChFC® (Chartered Financial Consultant). He volunteers as a Chair of the Board for MARCH, Inc. of Manchester, a Connecticut organization dedicated to enriching the lives of individuals with intellectual and developmental disabilities, as a Board Member of the Connecticut Council on Problem Gambling, and as a Board Member for Riverfront Recapture. Greg enjoys biking, hiking, kayaking, running, lacrosse and football in his free time.