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# UPDATE

July 3, 2024



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## U.S. Supreme Court Overturns Legal Test for Deference to Regulatory Agencies

In a split 6-3 decision, the United States Supreme Court issued its opinion in *Loper Bright Enterprises v. Raimondo*. In doing so, the Court overturned a decades-old legal doctrine known as “Chevron deference.”

In 1984, the Supreme Court decided *Chevron v. Natural Resources Defense Council*. In *Chevron*, the Court established a legal test for when courts should defer to regulatory agencies’ interpretation of statutes. The doctrine provided that judicial deference is appropriate where an agency’s interpretation of a statute is not unreasonable. The case dealt with regulations adopted by the Environmental Protection Agency under the Clean Air Act. Under *Chevron*, federal courts have deferred to “reasonable interpretations” of agency actions for 40 years.

In *Loper Bright Enterprises v. Raimondo*, the Court overturned *Chevron* and held that such a test violates the Administrative Procedures Act (APA). In writing for the majority, Chief Justice John Roberts stated that *Chevron* “requires a court to ignore, not follow, ‘the reading the court would have reached’ had it exercised its independent judgment as required by the APA.” Chief Justice Roberts continued, writing that *Chevron* “demands that courts mechanically afford binding deference to agency interpretations, including those that have been inconsistent over time.”

Following the *Loper* decision, the banking industry is optimistic that regulatory overreach will be stifled. There are several lawsuits currently pending that may be impacted positively by this decision. This includes federal courts reviewing regulatory overreach in Section 1071 small business data collection and the updated Community Reinvestment Act rules. *Loper* sends a clear message that unelected bureaucrats may not create their own laws. The full decision can be read [here](#).

## Photographers Selected for 2025 Scenes of Nebraska Calendar

Congratulations to the photographers whose photos will be featured in the 2025 Scenes of Nebraska Calendar!

[View the List](#)

Thank you to everyone who submitted photos for consideration! Have you captured a great shot of Nebraska? We're always accepting submissions. Email your photos for the 2026 calendar to [nbcommunications@nebankers.org](mailto:nbcommunications@nebankers.org).



The calendars are \$1.20 each, plus tax and shipping costs. Orders placed by Aug. 7 will ship by early October, and the final ordering deadline is Sept. 3. Visit the online ordering [portal](#) and log in or create an account to get started. More information on the ordering process, including an instructional video, can be found [here](#).

## NBA Members Provide Comments on the Secretary of State's Business Filing System

The Nebraska Secretary of State plans to replace its business filing software and asked the NBA to gather feedback from members on the current system, specifically the UCC and EFS filing processes.

NBA members complimented the ease of use of the current system and would like to see the same level of service with any new vendor. They also indicated they would like to see the following capabilities in a new system:

- compile all UCC and EFS filings by bank, and if possible, also by branch, to allow for better management of filings by the bank and be more user-friendly and minimize any errors or oversights related filings;
- modify and continue statements conducted at the same time;
- allow an option to check an "all counties" box on the EFS statement;
- allow an institution with multiple filings for which images are desired to check or mark a box for those that need to be printed or downloaded in a single step, rather than having to open and print or download each item individually;
- minimize multiple screens used to navigate filings or searches;
- submit EFS document first, with subsequent ability to print out the filing with the commodity and county information along with filing number information, all at one time, following submission;
- accommodate the filing of multiple continuation statements in a single filed document or submission which could streamline the process for filing continuation statements; and
- add an option to file an EFS amendment online.

# Happy Independence Day

Have a safe and happy holiday! A reminder that the NBA will be closed on July 4 and 5.

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## Legislative, Policy and Regulatory Updates

### NBA BankPAC Progress

\$134,649  
Collected

\$200,000  
Goal

[Learn More or Donate Online](#)

### Compliance Updates - June 28, 2024

- [Regulation CC Funds Availability Inflation Adjustment](#)
- [Home Mortgage Disclosure Act \(HMDA\) - Change in Exemption Threshold](#)
- [Regulation Z: Higher Priced Mortgage Loan Escrow Requirements](#)
- [Section 1071 Deadline Extended](#)

### Take Action: Urge U.S. Senators to Support the Secure Payments Act

Bankers are urged to contact their Senators and ask them to support the Secure Payments Act (S. 4570). The legislation would mandate that the Federal Reserve (Fed) assess the impact on consumers of reducing the debit interchange cap. Thank you to Rep. Mike Flood for cosponsoring the House version of the bill (H.R. 7531).

Last fall, the Fed released a [proposal](#) to lower debit interchange fees to 14.4 cents plus an additional 0.04% of the transaction amount while increasing the fraud-prevention adjustment to 1.3 cents.

### Take Action

### FinCEN Proposes Rule Mandating Risk-Based AML/CFT Programs

The Financial Crimes Enforcement Network (FinCEN) released a proposed rule that would require financial institutions to establish effective, risk-based anti-money laundering (AML) and countering the financing of terrorism (CFT) programs. The rule also mandates incorporating government-wide AML/CFT priorities into risk-based programs and makes other changes to compliance requirements.

### Read the Proposed Rule

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## Educational Opportunities

### Upcoming Events

- July 16-17 – [New Account Documentation & Compliance](#), Virtual
- July 23-24 – [Principles of Banking](#), Virtual

- **July 30-31** – **Business Cash Flow Analysis**, Virtual
- **Aug. 1-2** – **Young Bankers of Nebraska Conference**, Omaha
- **Aug. 6-8** – Robbery Safety for Frontline Personnel Seminar, **Ogallala, Norfolk, Lincoln**
- **Aug. 6-8** – **Fraud Academy**, Virtual
- **Aug. 13-14** – **Real Estate Lending Compliance Conference**, Lincoln

To see the complete event schedule, visit the **NBA Event Calendar**.

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## **Banks & Bankers**

**June 26 - July 2**

Email your news, press releases, photos and/or newspaper articles to be published in Banks & Bankers to **news@nebankers.org**.

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## **Compliance Alliance**

### **Assurance Services**

Did you know the APR for discounted variable-rate loans is calculated differently than variable rate loans without an initial discounted rate?

**Learn More**

### **Compliance Hub**

Q: Under Regulation E § 1005.6(b)(1) and § 1005.6(b)(2), a consumer's liability is limited in relation to the learning of the loss or theft of an "access device." What exactly is an access device?

**Learn the Answer**

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## **Other News**

### **CSBS Survey of Community Banks**

Banks with less than \$10 billion are encouraged to complete the 2024 National Survey of Community Banks conducted by the Conference of State Bank Supervisors (CSBS). The

survey is one of the longest and largest longitudinal surveys of the community bank industry. Results have enabled community banks to inform policymakers and researchers about the community banking industry's opportunities and challenges. Responses should be submitted by July 14.

**Take the Survey**

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## Preferred Vendors

### ODP Business Solutions

Whether your employees are teaming up in one location or connecting remotely, **ODP Business Solutions** can help you create and maintain a “comfort zone” work environment to help maximize efficiency and productivity.

Make sure to mention you're an NBA member to take advantage of competitive pricing.



### SBS CyberSecurity

Learn about the Federal Trade Commission's (FTC) recent data breach notification rules in a new **blog** from **SBS CyberSecurity**. The FTC has taken a significant step towards safeguarding consumer personal information by amending the Safeguards Rule within the Gramm-Leach-Bliley Act to classify certain businesses as non-banking financial institutions (NBFIs).



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