



Memorandum

VIA EMAIL

Date: June 18, 2012

To: Clients and Friends

From: Stanley J. Marcuss
George F. Murphy

Re: New Jersey Bill Imposes Sanctions Against Iran

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A New Jersey General Assembly committee approved last week a bill that would prohibit state and local government entities from entering into contracts with individuals or companies that engage in certain activities with respect to Iran, such as providing goods or services to the Iranian energy, finance or construction sectors. The bill's stated purpose is "to support the policy of the United States" by denying Iran the ability to support international terrorism financially or manufacture or transport weapons of mass destruction.

New Jersey's action is reminiscent of the actions that a number of states and cities took to protest South African apartheid many years ago. As was the case then, the proposed measure raises federal preemption issues.

On that score, the New Jersey bill cites the authority granted state and local governments under the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 ("CISADA"), which gives state and local governments the authority to "adopt and enforce measures" in order to divest themselves of assets of those who engage in "investment activities" related to the energy sector in Iran. Whether the New Jersey bill is consistent with CISADA or federal preemption law in general is an open question, especially because the authority the New Jersey bill would grant appears to be broader than the authority expressly granted by CISADA. Preemption is a perennial issue when states attempt to legislate in areas involving U.S. foreign policy.