

SECTION-BY-SECTION ANALYSIS OF
The Bank Accountability and Risk Assessment Act of 2009

Section 1. Short Title.

“Bank Accountability and Risk Assessment Act of 2009”

Section 2. Findings and Purpose

To maintain the safety and soundness of the U.S. banking system by ensuring that the Deposit Insurance Fund is adequately capitalized to respond to the failures of large institutions that would otherwise threaten the financial system and to return a sense of fairness and accountability to the deposit insurance premium assessment process.

**Title I. Modernizing the Federal Deposit Insurance Corporation’s
Risk-Based Assessment System**

Section 101. Accounting for Actual Risk to the Deposit Insurance Fund

Creates a “Risk-Based Assessment System” for capitalizing the Deposit Insurance Fund (the “Fund”) that calculates a depository institution’s assessment based upon:

- (i) the probability the Fund will incur a loss with respect to the institution;
- (ii) the likely amount of such a loss;
- (iii) the risks to the Fund that can be attributed to an institution and its affiliates, taking into account:
 - (a) the amount, categories and concentrations of assets of the insured institution and its affiliates, including both on-balance sheet and off-balance sheet assets;
 - (b) the amount, categories and concentrations of liabilities – both insured, uninsured, contingent and non-contingent – of the insured institution and its affiliates, including both on-balance sheet and off-balance sheet liabilities;
 - (c) any other factors the FDIC deems relevant to assessing risk; and
- (iv) the revenue needs of the Fund.

These provisions change the law by requiring the FDIC to consider the risk represented by the assets and liabilities of all depository institution affiliates, in addition to the assets and liabilities of the depository institutions themselves. Recent history has demonstrated that the risk to the FDIC and taxpayers cannot be determined solely by looking at a depository institution in isolation. A more accurate gauge of risk requires an assessment of risks throughout a holding company. The provisions also requires the FDIC to consider the amount of asset and liabilities, in addition to the concentration and categories of assets and liabilities.

Section 101 also creates a “Systemic Risk Premium” that will be levied at least once a year and will be in addition to the annual assessment imposed on all depository institutions by the FDIC. The special risk premium will only be imposed on those depository institutions that are deemed “Systemically Important” by the FDIC in consultation with the Secretary of the Treasury and the Board of Governors of the Federal Reserve, taking the following factors into consideration:

- (i) the categories and concentrations of assets of the entity and its affiliates, including both on-balance sheet and off-balance sheet assets;
- (ii) the categories and concentration of the liabilities of the entity and its affiliates, including insured and uninsured, contingent and non-contingent liabilities and both on-balance sheet and off-balance sheet liabilities ;
- (iii) the activities of the entity and its affiliates;
- (iv) the relevant market share of the entity and its affiliates; and
- (v) the potential adverse affects the entity's failure may have on overall economic conditions and financial stability.

Section 102. Risk-Focused Assessment Base

Requires that the assessment base of a depository institution be equal to the product of:

- (i) the assessment rate established by the FDIC; and
- (ii) the amount of the institution's average total assets during the assessment period, less the entity's average tangible equity during the period.