family, or household purposes from the institutions listed below. This part
does not apply to information about companies or about individuals who ob-
tain financial products or services for business, commercial, or agricultural
purposes. This part applies to United States offices of entities for which the
Office of the Comptroller of the Currency has primary supervisory author-
ity. They are referred to in this part as “the bank.” These are national banks,
Federal branches and Federal agencies of foreign banks, and any subsidiaries
of such entities except a broker or dealer that is registered under the Se-
curities Exchange Act of 1934, a reg-
istered investment adviser (with re-
spect to the investment advisory ac-
tivities of the adviser and activities in-
cidental to those investment advisory activities), an investment company
registered under the Investment Com-
pany Act of 1940, an insurance company
that is subject to supervision by a
State insurance regulator (with respect
activities of the company and activities incidental to those insurance activities), and an entity that
is subject to regulation by the Com-
modity Futures Trading Commission.

(2) Nothing in this part modifies, lim-
its, or supersedes the standards gov-
erning individually identifiable health
information promulgated by the Sec-
retary of Health and Human Services
under the authority of sections 262 and
264 of the Health Insurance Portability
and Accountability Act of 1996 (42

§ 40.2 Model privacy form and exam-

(a) Model privacy form. Use of the
model privacy form in Appendix A of
this part, consistent with the instruc-
tions in Appendix A, constitutes com-
pliance with the notice content re-
quirements of §§ 40.6 and 40.7 of this
part, although use of the model privacy
form is not required.

(b) Examples. The examples in this
part are not exclusive. Compliance
with an example, to the extent applica-
ble, constitutes compliance with this
part.

[74 FR 62916, Dec. 1, 2009]

§ 40.3 Definitions.

As used in this part, unless the con-
text requires otherwise:

(a) Affiliate means any company that
controls, is controlled by, or is under
common control with another com-
pany.

(b)(1) Clear and conspicuous means
that a notice is reasonably understand-
able and designed to call attention to
the nature and significance of the in-
formation in the notice.

(1) Examples—(i) Reasonably under-
standable. A bank makes its notice rea-
sonably understandable if it:

(A) Presents the information in the
notice in clear, concise sentences,
paragraphs, and sections;

(B) Uses short explanatory sentences
or bullet lists whenever possible;

(C) Uses definite, concrete, everyday
words and active voice whenever pos-
sible;

(D) Avoids multiple negatives;

(E) Avoids legal and highly technical
business terminology whenever pos-
sible; and

(F) Avoids explanations that are im-
precise and readily subject to different
interpretations.

(ii) Designed to call attention. A bank
designs its notice to call attention to
the nature and significance of the in-
formation in it if the bank:

(A) Uses a plain-language heading to
call attention to the notice;

(B) Uses a typeface and type size that
are easy to read;

(C) Provides wide margins and ample
line spacing;

(D) Uses boldface or italics for key
words; and

(E) In a form that combines the
bank’s notice with other information,
uses distinctive type size, style, and
graphic devices, such as shading or
sidebars, when you combine your no-
tice with other information.

(iii) Notices on web sites. If a bank pro-
vides a notice on a web page, the bank
designs its notice to call attention to
the nature and significance of the in-
formation in it if the bank uses text or
visual cues to encourage scrolling down
the page if necessary to view the entire