



Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

July 21, 2004

Interpretive Letter #1003
August 2004

Subject: *Suspicious Activity Reports*

Dear []:

We are in receipt of your correspondence dated May 13, 2004, requesting the Office of the Comptroller of the Currency's ("OCC") views regarding the filing of Suspicious Activity Reports ("SARs") by national banks in receipt of National Security Letters ("NSLs").

The first issue raised in your letter concerns the filing of SARs by banks upon receipt of NSLs. You asked that the OCC confirm that the mere receipt of an NSL does not require the filing of a SAR. The OCC's regulations obligate a national bank to file a SAR whenever it detects:

any known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against the bank or involving a transaction or transactions conducted through the bank . . . where the bank believes that it was either an actual or potential victim of a criminal violation, or series of criminal violations, or that the bank was used to facilitate a criminal transaction,

and (1) a bank insider was involved; or (2) over \$5,000 was involved, and the bank can identify a suspect; or (3) over \$25,000 was involved, but the bank cannot identify a suspect; or, alternatively, that the transaction involves \$5,000 or more and involves potential money laundering or violations of the Bank Secrecy Act. 12 C.F.R. § 21.11(c). Based on the OCC's regulations, this letter confirms that the OCC does not take the position that mere receipt of an NSL requires the filing of a SAR. If a bank were to file a SAR, however, we note that the SAR should only reference the facts that form the basis for the filing, rather than the receipt of an NSL. This is so, because the facts requiring the filing of a SAR under the OCC's regulations are not related to the simple receipt of an NSL, but the suspicious activity in the underlying account.

We are revisiting our policies on the issues raised in your letter. It is important to note that the OCC's authority for the regulation and examination of financial institutions—and the

enforcement of the Bank Secrecy Act and SAR requirements—applies only to the roughly 2,000 national banks and 50 federal branches and agencies of foreign banks that are supervised by the OCC. Many other financial institutions must comply with the Bank Secrecy Act and SAR requirements, such as federal thrifts, state chartered banks and credit unions, and these entities are regulated and examined by the four other federal banking agencies.¹ Consequently, we believe the issues referenced in your letter are appropriately addressed on an interagency basis with each of the federal banking agencies. The OCC intends to raise these issues with the other federal banking agencies to develop policies on an interagency basis.

Sincerely,

signed

Daniel P. Stipano
Deputy Chief Counsel

¹ The other federal banking agencies include the Office of Thrift Supervision (federal thrifts); the Board of Governors of the Federal Reserve System (state chartered banks that are members of the Federal Reserve System); the Federal Deposit Insurance Corporation (state chartered banks that are not members of the Federal Reserve System); and the National Credit Union Administration.