The provisions of part 34 expressly apply equally to national banks and their operating subsidiaries:

This part applies to national banks and their operating subsidiaries as provided in 12 CFR 5.34.[111]

Accordingly, the same preemption conclusions about the GFLA reached above for national banks pursuant to sections 34.4(a) and (b) of the OCC's regulations, and those concerning the GFLA's restrictions on components of interest [112] or fees, apply equally to their operating subsidiaries.

IV. Results of the Analysis

For the reasons stated above, we are issuing an order concluding that the GFLA does not apply to National City or any other national bank or national bank operating subsidiary that engages in real estate lending activities in Georgia. This order is expressly authorized by section 371.[113] The authority vested in the OCC to establish the terms, conditions, and requirements that apply to national bank real estate lending necessarily encompasses the authority to say which terms, conditions, and requirements *do* not apply to national bank real estate lending. This Order has the force and effect of law.[114]

Order

The conditions imposed by the GFLA on the real estate lending activities of national banks do not apply to National City, or any other national bank, or national bank operating subsidiary, that engages in real estate lending activities in Georgia.

Dated: July 30, 2003.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 03–19907 Filed 8–4–03; 8:45 am]

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disagree. Executive Order 13132 requires intergovernmental consultation if a rule preempts state law, and an agency must consult to the extent practicable with state and local officials early in the process of developing the proposed regulation. Office of Management and Budget guidance on the Executive Order notes that the consultation ''should seek comment on * * * preemption as appropriate to the nature of the rulemaking under development. The timing, nature, and detail of the consultation involved should also be appropriate to the nature of the regulation involved.'' M–00–02, ''Guidance for Implementing E.O. 13132, 'Federalism,'' at 5 (Oct. 28, 1999), available at *http://www.whitehouse.gov/omb/memoranda/m00–02.pdf*. This process was followed in connection with the promulgation of § 7.4006. As we explained in the preamble to the final rule adopting § 7.4006:

''In addition to publishing our proposal for comment by all interested parties, including State and local officials, we also brought the proposal to the attention of the Conference of State Bank Supervisors and specifically invited its views, and the views of its constituent members, on the revisions we proposed. In the preamble to this final rule, we have described the comments we received from State officials or their representatives and our responses thereto. Finally, we have made those written comments we received from State or local officials available to the Director of OMB.''—66 FR 34784, 34790 (July 2, 2001).

The same commenter argues that this order or determination should be delayed until the requirements of Executive Order 13132 have been met by the OCC. We note that the consultative process required by the Executive Order has been met by our solicitation (and receipt) of comment from interested parties.

[111] 12 CFR 34.1(b).

[112] *See* OCC Interpretive Letter No. 954 (Dec. 16, 2002) (12 U.S.C. 85 applies equally to national bank operating subsidiaries and their parent national banks).

[113] Even if the OCC's express authority under section 371 were construed not to be broad enough to permit it to issue this order, the Administrative Procedure Act (APA) authorizes agencies to issue orders ''to terminate a controversy or remove uncertainty.'' 5 U.S.C. 554(e) (''The agency, with like effect as in the case of other orders, and in its sound discretion, may issue a declaratory order to terminate a controversy or remove uncertainty.''). Although section 554(e) is contained within the APA provisions for matters that are required by statute to be determined on the record after an opportunity for a hearing, there is considerable case law and agency practice of issuing orders in other circumstances. For example, in *American Airlines, Inc.* v. *Dep't of Transp.,* 202 F.3d 788 (5th Cir. 2000), the court of appeals upheld a DOT declaratory order under section 554(e) that preempted certain municipal regulations. The court specifically found authority for such an order and that procedural provisions of section 554 were not applicable. In short, the court found that section 554(e) was a source of authority for a declaratory order independent of the remainder of section 554.

Examples of agencies issuing legally binding orders pursuant to authority other than section 554(e) of the APA are numerous. For example, under section 3 of the Bank Holding Company Act, applications to become a bank holding company are approved by Federal Reserve Board orders. In *Farmers & Merchts. Bank of Las Cruces* v. *Bd. of Governors of Fed. Reserve Sys.,* 567 F.2d 1082 (D.C. Cir. 1977), the court of appeals affirmed the Board's order approving the formation of a holding company, noting that the protesting bank had no right to a hearing before the Board in light of the OCC's recommended approval of the acquisition. A similar result was reached in *Grandview Bank & Trust Co.* v. *Bd. of Governors of Fed. Reserve Sys.,* 550 F.2d 415 (8th Cir. 1977).

[114] As noted above, the OCC is issuing at the same time as this Determination and Order is issued a Notice of Proposed Rulemaking that invites comments on a proposed codification of broadly applicable preemption provisions. We have elected to respond to National City through an order given the narrower focus of the request.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 6 Taxpayer Advocacy Panel (Including the States of Alaska, Arizona, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 6 Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel (TAP) is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. The TAP will use citizen input to make recommendations to the Internal Revenue Service.

DATES: The meeting will be held Monday, August 18, 2003.

FOR FURTHER INFORMATION CONTACT: Anne Gruber at 1–888–912–1227, or 206–220–6098.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 7 Taxpayer Advocacy Panel will be held Monday, August 18, 2003 from 2 p.m. Pacific Time to 4 p.m. Pacific Time via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 206–220–6098, or write to Anne Gruber, TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Anne Gruber. Ms. Gruber can be reached at 1–888–912–1227 or 206–220–6095.

The agenda will include the following: various IRS issues.

Dated: July 31, 2003.

Deryle J. Temple,

Director, Taxpayer Advocacy Panel.

[FR Doc. 03–19929 Filed 8–4–03; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference).

DATES: The meeting will be held Wednesday, August 27, 2003, from 12 noon e.d.t. to 1 p.m. e.d.t.

FOR FURTHER INFORMATION CONTACT: Sallie Chavez at 1–888–912–1227, or 954–423–7979.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be held Wednesday, August 27, 2003, from 12 noon e.d.t. to 1 p.m. e.d.t. via a telephone conference call. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7979, or write Sallie Chavez, TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Sallie Chavez. Ms. Chavez can be reached at 1–888–912–1227 or 954–423–7973.

Dated: July 31, 2003.

Deryle J. Temple,

Director, Taxpayer Advocacy Panel.

[FR Doc. 03–19931 Filed 8–4–03; 8:45 am]

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