avoidance of conflicts of interest and usurpations of corporate opportunity.

Standard Approval Conditions. The proposed rule revises and codifies the standard approval conditions for de novo institutions. The OTS has generally imposed approval conditions in order to ensure compliance with its substantive regulations, to address unique supervisory concerns, and to impose subsequent oversight by the OTS regional offices. However, a number of these standard conditions, such as those imposing specific controls on insider and affiliate transactions, have become redundant or obsolete. For example, a previously imposed standard condition required the submission of extensive background material by controlling shareholders, directors and officers both prior to and after consummation of the transaction. Current statutory and policy requirements already adequately address this issue and a standard condition is not necessary.23 However, the proposal retains a requirement that provides for the collection of information on the performance of management, which gives the OTS an additional supervisory tool for institutions without proven track records.

Recodification of Requirements. Under the proposed amendment, the requirements for creation of a de novo institution will be moved from part 571, Statement of Policy, to part 543, Incorporation, Organization, and Conversion of Federal Mutual Associations, and incorporated into part 552, Incorporation, Organization, and Conversion of Federal Stock Associations, by cross-reference to part 543. This recodification will make these provisions easier to locate, as they will be grouped with other federal savings association regulations rather than with policies affecting all savings associations. Recodifying these provisions as regulations should also minimize any confusion about their status as requirements, rather than only guidance.

IV. Request for Comment

The OTS requests comments from interested parties on all aspects of this proposal. In addition, the OTS is specifically soliciting comment on

whether or not there should be a deletion or revision of the current section 571.6(c), which contains requirements regarding the composition of the board of directors. This section was added in 1984.²⁴ It specifically provides, among other things, that a majority of the board of directors must be representative of the state in which the association is located, and that it must be diversified and composed of individuals with varied business and professional experience. The FDIC Policy Statement 25 and that of the Office of the Comptroller of the Currency (OCC) have similar requirements. The OCC Policy Statement states that local directors encourage "community support." 26 The OTS is requesting comment on whether the explicit requirements for a board of directors with diverse backgrounds and ties to the *de novo's* home state continue to serve a useful purpose. The OTS also is requesting comment on the factors currently in its Policy Statement that are to be considered in judging whether the board of directors meets these requirements.

V. Executive Order 12866

The Director of the OTS has determined that this proposed rule does not constitute a "significant regulatory action" for the purposes of Executive Order 12866.

VI. Paperwork Reduction Act

The reporting requirements contained in this proposed rule have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Management and Budget, Paperwork Reduction Project (1550), Washington, D.C. 20503, with copies to the Office of Thrift Supervision, 1700 G Street, NW., Washington, D.C. 20552.

The reporting requirements in this proposed rule are found in 12 CFR 543.3. The information is needed by the OTS to reduce the risk of loss to newly-chartered institutions and the Savings Association Insurance Fund.

Estimated number of respondents: 10 Estimated average burden per respondent: 110 hours

Estimated annual frequency of responses: 1

Estimated total annual reporting burden: 1100 hours

VII. Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, the OTS certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. The proposal does not impose additional burdens or requirements upon a small entity that files an application to become a *de novo* institution.

List of Subjects

12 CFR Part 543

Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 552

Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 571

Accounting, Conflicts of interest, Investments, Reporting and recordkeeping requirements, Savings associations.

Accordingly, the Director, Office of Thrift Supervision, hereby proposes to amend parts 543, 552, and 571, chapter V, title 12 of the Code of Federal Regulations, as set forth below:

SUBCHAPTER C—REGULATIONS FOR FEDERAL SAVINGS ASSOCIATIONS

PART 543—INCORPORATION, ORGANIZATION, AND CONVERSION OF FEDERAL MUTUAL ASSOCIATIONS

1. The authority citation for part 543 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901 *et seq.*

§ 543.2 [Amended]

- 2. Section 543.2 is amended by removing and reserving paragraph (g)(2). 3. A new § 543.3 is added to read as follows:
- § 543.3 "De Novo" applications for a Federal savings association charter.
- (a) Definitions. For purposes of this section, the terms "de novo association" and "de novo applicant" mean any savings and loan association, savings association, or savings bank that has submitted to the Office an application for permission to organize a Federal savings association, the business of which has not been conducted previously under any charter or conducted in substantially the same form as is proposed to be conducted by the de novo association for a period of three years.
- (b) *Minimum initial capitalization.* (1) A *de novo* association must have not

²³ Section 32 of the FDIA, which was added by FIRREA, requires certain savings associations and thrift holding companies to notify the OTS and provide it with relevant information prior to adding or replacing directors or hiring senior executive officers if, among other things, the association has been chartered for less than two years. *See* 12 U.S.C.A. 1831i (West 1989); 58 FR 45421 (August 30, 1993) (OTS final rule implementing section 32); OTS Thrift Bulletin No. 45 (April 25, 1990).

^{24 49} FR 41243 (October 22, 1984).

^{25 57} FR 12825 (April 13, 1992).

²⁶ 12 CFR 5.20(d)(3)(iv)(B).