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## 4. Company Law

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### 4.1 Forms of business organization

Mexican law contemplates several forms of business organization, including:

- corporations (*sociedades anonimas (S.A.)*, or *sociedades anonimas de capital variable (S.A. de C.V.)*; hereinafter collectively referred to as "corporation(s)");
- limited liability companies (*sociedades de responsabilidad limitada (S.R.L.)*, or *sociedades de responsabilidad limitada de capital variable (S.R.L. de C.V.)*; and
- partnerships (*sociedades en nombre colectivo*).

Partnerships are not generally used by foreign investors because they do not provide limitation of liability to the partners. U.S. investors sometimes use an *S.R.L.* (which does provide limited liability) for U.S. tax purposes. The corporation, however, is by far the most common form of organization used by foreign investors in Mexico. The balance of the discussion in this section is limited to corporations.

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### 4.2 Capital

Upon incorporation, a corporation must have fully subscribed capital of at least N \$50,000 pesos and all in-kind contributions. Furthermore, at least 20 percent of cash contributions must be paid-in.

The *S.A.* and *S.A. de C.V.* differ in at least one significant respect. A maximum amount of capital for an *S.A.* is fixed and specified in its charter and by-laws; any subsequent increase or decrease in the corporate capital requires amending the corporate charter and by-laws. Conversely, the charter and by-laws of an *S.A. de C.V.* fix the amount of minimum capital and an amount of "variable" capital in excess of the minimum capital. The variable capital may be unlimited and may be increased or decreased without amending the corporate charter and by-laws. For this reason, foreign investors, particularly those with wholly-owned subsidiaries that want the flexibility of increasing or decreasing the corporate capital without amending the corporate charter and by-laws, ordinarily organize their business activities in the form of an *S.A. de C.V.* rather than an *S.A.*