



# *INTERNATIONAL GUIDE TO DOING BUSINESS IN HONDURAS*

**PRELIMINARY NOTE: Dear reader: please be advised that this Guide is not intended to be a substitute for detailed investigation of legal issues in Honduras. It is meant to be a guide with the sole purpose of providing a very general idea of what issues must be considered before conducting business in Honduras. We strongly recommend hiring reputable legal counsel before conducting business in Honduras. We have done our best to highlight the issues which we consider to be most important when doing business in Honduras.**

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***I. The Country at a Glance.***

***A. What languages are spoken?***

Honduras' official language is Spanish.

***B. What is the exchange rate for the U.S. Dollar and the Euro?***

During 2007 and up to July 2008, the exchange rate for the purchase of Lempiras (Honduran Currency) averaged 18.89 Lempiras per 1 U.S. Dollar and 27.09 Lempiras per 1 Euro.

***C. Describe your country's geography, proximity to other countries and climate.***

Honduras sits right in the middle of Central America. Our country shares borders with Guatemala in the North, El Salvador in the Southwest and Nicaragua in the Southeast. The country is approximately 112,800 Km<sup>2</sup> in surface area. The terrain is very mountainous and has coasts in both the Atlantic and the Pacific Oceans. The weather can drop to the 70's in the winter time and rise to 100's in the summer.

***D. Are there any cultural influences or prohibitions on the way business is conducted?***

Generally speaking, business in Honduras is conducted in the same way it is conducted in the rest of Central America.

***E. Are there religious influences or prohibitions on the way business is conducted?***

No.

***F. Explain your country's infrastructure. Be sure to explain which cities have airports, railroad systems, ports and public transportation.***

Honduras has international airports in 4 cities: Tegucigalpa, La Ceiba, San Pedro Sula and Roatán. Our country has ports in several cities the most important ones being in Puerto Cortés, La Ceiba, Tela and Roatán, in the Atlantic and Amapala in the Pacific. Public transportation is provided via taxis and buses. San Pedro Sula has a rudimentary railroad system.

***G. Explain the communication system.***

Getting around Honduras is accomplished mainly by traveling by the country's roads and highways via cars or busses. All the main roads are paved. Airlines offer domestic flights between cities with airports. Ferries and charter boats provide transportation to the country's island territories.

***H. Describe public services- i.e. water, electricity, gas. Are they publicly or privately owned?***

Electricity in Honduras is provided by a state owned entity called *Empresa Nacional de Energía Eléctrica (ENEE)*. Although several private parties generate power, they sell to the ENEE who supplies power to the public. Water is most provided by a state owned entity called *Servicio Autónomo Nacional de Acueductos y Alcantarillados (SANAA)*. There are, however, some cities where the SANAA has granted concessions to private parties to provide these services. Telephone Services are mostly provided by a state owned entity called *HONDUTEL*. *CONATEL*, the National Commission for Telecommunications, has licensed several private entities to operate mobile and fixed telephone lines in recent years.

## ***II. GENERAL CONSIDERATIONS.***

### ***A. Investment policies.***

#### ***1. Does the country generally welcome investment? Are there governmental or private agencies devoted to the promotion of investment?***

Yes, Honduras generally welcomes foreign investment. There are both private and governmental agencies that promote investment.

#### ***2. What is the rate of inflation?***

According the *Banco Central de Honduras*, up to August 2008, the inter-annual inflation rate was at 14%.

#### ***3. Explain any sector exceptions, incentives or restriction on foreign investment?***

Generally speaking foreign investors are free to own and operate any business they like. Manufacturing and tourism related businesses are offered particularly favorable investment incentives.

There are few limitations when it comes to the sectors where foreign investors can't participate in freely; but they are the exception rather than the rule. For example, foreign persons and/or entities cannot own land within 40Km of the nation's borders. Also entities which provide armed guard services and are owned by foreign persons or entities must meet special requirements.


#### ***4. What types of businesses are conducted in the country?***

Most foreign investment in Honduras is made in the industrial and tourism related sectors. Recently, foreign banks have started taking over their Honduran counterparts. Private telecommunications providers are mostly owned by foreign investors.

#### ***5. Diplomatic Relations.***

According to the Ministry of Foreign Relations, the following embassies currently operate in Honduras:

 German Embassy

 Argentina Embassy


 Brasil Embassy

 Korea Embassy

 Colombia Embassy

 Costa Rica Embassy


 Chile Embassy


 Republic of China (Taiwan) Embassy.

 Dominican Republic Embassy.


 Ecuador Embassy.

 Spain Embassy.

 United States of America Embassy.


 El Salvador Embassy.


 France Embassy.


 Guatemala Embassy.

 Italy Embassy.


 Japan Embassy.


 Mexico Embassy.


 Nicaragua Embassy.

 Panama Embassy.

 Peru Embassy.

 Apostolic Nunciature


 Venezuela Embassy.

 Cuba Embassy.

 Royal Order of Malta.

 Canada Embassy.

 Sweden Embassy.

 Organization of American States.

## ***B. Government.***

### ***1. Explain your country's election system and schedule. Is there an anticipated change in the present government?***

Honduras' government is democratic. Elections are held every 4 years. Presidents cannot be reelected. Honduran democracy has been evolving recently. Congressmen and women as well as mayors are now individually elected. Supreme Court Justices are no longer appointed by the President. All changes which bring us closer to a pure democracy.

Elections are scheduled for 2009 with a new government taking over in 2010.

### ***2. Is the present government stable? Briefly explain your country's political history in the last decade.***

Yes, at present our government remains stable. For the past decade great steps have been taken to strengthen our democratic tradition. Elections have been held regularly and on schedule. The stability of our governments over the last decade is evidenced by the growth of foreign investment.

### ***3. Explain your country's judicial system.***

Great strides have been made in order to improve the Honduran Judicial System. Supreme Court Justices are now elected separately from the President and Congressmen and women. Our judicial system tends to favor those with the law on their side. Save for certain exceptions, parties are free to select the country where their disputes are to be resolved. Arbitration is now becoming a more prevalent method for dispute resolution. Generally speaking, judgments made by courts or foreign nations are given the same validity as the

judgments of Honduran courts are given in said nations. The Honduran Judicial System is divided in to four main branches Courts of Peace, Courts of Letters, Courts of Appeals and the Supreme Court.

#### **4. Explain your country's legislative system.**

According to the Honduran Constitution laws must be proposed by persons having "Legal Initiative". These people are: The President through his Secretaries of State, Congressmen and women, the Supreme Court and Supreme Election Tribunal. Proposed laws are discussed and approved, or disproved, by the majority of Congress. Approved laws must be sanctioned by the President who may execute or veto them. Vetoed laws must return to Congress and be passed by 2/3 of the vote in order to become law. Laws are published in the country's official newspaper, "*La Gaceta*", and are compulsory to the population once the time period established therein goes by.

### **C. Environmental Considerations.**

#### **1. Explain any environmental regulations?**

Environmental matters in Honduras are regulated by the "*Ley General del Ambiente*" and the "*Reglamento General de la Ley del Ambiente*". A series of more specialized regulation stem from the aforementioned bodies of law.

Generally, speaking all businesses which can potentially pollute the air, soil and or bodies of water needs to have an environmental license. The process to obtain said license is very complicated and slow. Good legal counsel is a must in this area.

#### **D. Intellectual Property.**

Intellectual Property in Honduras is mainly regulated by the “*Ley del Derecho de Autor y de los Derechos Conexos*” and the “*Ley de Propiedad Industrial*”. Both bodies of law have been amended to afford special protection to intellectual property belonging to persons or entities party to the RD-CAFTA free trade agreement.

Honduras is party to the following Conventions in relation to Intellectual Property:

- The 1995 Convention between the World Intellectual Property Organization and the World Trade Organization.
- The 1994 Convention on Trade Related Aspects of Intellectual Property Rights
- The 1967 Paris Convention.
- The 1971 Bern Convention.
- The 1961 Rome Convention.

### III. INVESTMENT INCENTIVES

Honduras has always welcomed foreign investment. Currently there are two fields which benefit from investment incentives: Tourism Projects and Manufacturing.

Investments that promote tourism can apply for special tax treatment under the “*Ley Incentivos al Turismo*” and the “*Zona Libre de Turismo (ZOLITUR)*”. Both regimes offer special tax treatment to investors who apply for the corresponding authorizations. These benefits include but are not limited to exemption from paying income tax, import duties, and municipal taxes among others.

Investors who wish to manufacture products, for export purposes, may also apply for special tax treatment under the “*Regimen de Importación Temporal (RIT)*”, “*Zona Industrial de Procesamiento (ZIP)*” and “*Zona Libre (ZOLI)*” regimes. All these regimes offer, among other benefits, exemption from import and export duties and income tax.

The choice of regime depends on the investor’s specific needs. Applying for these regimes requires a petition be filed by a Honduran attorney. All the required documentation must be duly legalized (either by a Honduran Consul or Apostille). With the exception of the boarder property limitation described above, there is rarely the need to have Honduran investors in order to apply for these benefits.

#### ***IV.LABOR LEGISLATION.***

##### **GENERAL INFORMATION.**

Honduran Labor legislation should be seriously considered before doing business in Honduras. Our Labor Code, which dates back to 1959, is extremely protective of the employee. Special attention should be given to article 3 of the Code. According to Article 3, all acts or stipulations which imply waiver, diminution or curtailment of worker's rights are null and void. When disputes arise, the employee's statements are assumed to be true and the employer has to prove otherwise bearing the burden of proof.

All employees must have a written contract. Said contract must be drafted in Spanish and in accordance with current labor laws according to Articles 21 and 37 of the Labor Code. The existence of said contract is the employer's responsibility. Therefore the lack of a written contract is considered the employer's fault. All statements made by the employee are considered to be true. The employer must prove otherwise.

Employers must register their employees with the Ministry of Labor. All companies which employ more than 5 employees must have an Internal Employment Manual. This manual must be approved by the Ministry of Labor according Article 88 of the Labor Code.

Companies employing more than 10 employees must have a Hygiene and Security Manual this manual must also be approved the Ministry of Labor according to Article 397 of the Labor Code.

Minors under the age of 18 may not work unless they have a special authorization to do so according to Article 126 et. seq. of the Labor Code.

The Honduran Labor Code imposes minimum of Honduran Personnel (90%) that must be hired by every Honduran Company under Article 11 of the Labor Code.

All agreements, which affect employee rights must be executed before an Inspector from the Ministry of Labor in order to be valid.

Under Article 16 of the Labor Code all communications and instructions directed to employees must be in Spanish.

Article 12 of the Labor Code forbids any kind of discrimination in the workplace.

#### Payment and Compensation.

Minimum wage is periodically set by the government. The set minimum wage is determined by several factors such as field of work and the place where company operates based on Article 383 of the Labor Code.

Honduran employees must be paid a 13th month's bonus, in December of every year, and a 14th month's bonus, in July of every year. These payments are equal to one month's pay and are paid proportionally to time worked during the first year of service.

Employers are responsible for withholding income and municipal tax from their employees.

Employers must register their employees with the *Instituto Hondureño de Seguridad Social* (Social Security), *Instituto de Formación Profesional* (Institute for Profesional Education) and *Regimen de Aportaciones Privadas/Fondo Social de la Vivienda* (Social Home Fund).

Employers are responsible for withholding employee's contribution to these entities as well as paying a percentage of salaries paid on the employee's behalf.

*Vacations Holidays and Rest Periods.*

Pregnant women are granted special rest periods and time off before and after child birth under Article 135 of the Labor Code. Pregnant women cannot be fired before undergoing a special process before the Ministry of Labor.

The Labor Code imposes a maximum of work hours a week.

- Daytime (5:00a.m. to 7:00 p.m.) work is 8 hours a day 44 hours per week.
- Nighttime (7:00 p.m. to 5:00 a.m.) work is 6 hours a day 36 hours per week and
- Mixed Time (day and night) is 7 hours a day and 42 hours a week under Articles 321 and 322 of the Labor Code.

Minimum paid vacation time is regulated as follows:

- After 1 year of service 10 working days;
- after 2 years of service 12 working days;
- after 3 years of service 15 working days; and,
- more than 4 years of service 20 working days.

Please note that vacation days are consecutive under Article 346 of the Labor Code. Vacation time cannot be compensated with money or accumulated. Please note that January 1, April 14, May 1, September 15th, October 3, 12 and 21, December 25 and Thursday, Friday and Saturday of Easter Week are Holidays.

*Severance and Termination.*

All Honduran employees are entitled to very heavy severance pay in the event of termination of their employment without cause. This payment is equal to 1 month's pay for every year worked. Entities with less than 10 employees can cap this payment at 15 years. Entities with more than 10 employees can cap this payment at 25 years under Article 120 of the Labor Code.

Entities having more than 10 employees must also consider the following provisions:

- ❖ After 15 years of service any employee may quit and be entitled to 35% of his or her accrued severance.
- ❖ After 6 months of continued service in the event of an employee's death, his or her heirs are entitled to 70% of the accrued severance.

## V. TAXES.

### A. Taxes for Entities

#### 1. Taxes payable to the Central Government.

All entities must pay *Income Tax*. Income Tax is currently equal to 25% of their net taxable income. Net taxable income is determined by the entity's gross income minus legally recognized deductions. Entities must also pay a *Temporary Solidarity Tax* payment. This payment is equal to an additional 5% over net taxable income exceeding 1 million Lempiras. Entities must file and pay for their taxes before April 30 of every year.

Honduran Tax laws have established a system known as "*Payments made to Account*". This policy results in advanced income tax payments equal to 25% of previous year's tax payment. These advanced payments are made during the months of June, September and December. These advanced tax payments are later deducted from the taxes payable before April 30, 2009.

Entities are also responsible for withholding and paying *Income Taxes on Employee Income*. Taxes on employee income range from 15% to 25% depending on the employee's salary.

Entities are additionally responsible for *Withholding Income Tax from Third Parties*. For example, entities must withhold taxes from foreign nationals for services paid. Services provided by foreign nationals range from 10% to 35% depending on the service provided. Entities must also withhold 12.5% from professional fees paid to local professionals. Once a year all entities must file a *Consolidated Withholdings Report* before the tax authorities. The Consolidated withholding report is a summary of all taxes withheld to third parties for any reason.

The local tax authority classifies tax payers in to groups. When it comes to entities, if they meet the requirements to be considered a “Large Contributor”, they must file a *Client and Provider Statement*.

Entities must also file a form detailing information regarding their shareholders and the payment of dividends to the tax authorities.

## **2. Municipal Taxes.**

All businesses must have a valid *Operation’s Permit* issued by the corresponding Municipality. These permits must be obtained every year. Municipalities in Honduras are autonomous which means that they are free to determine the amount they charge for taxes. These amounts set for each year are published, by each municipality, in the country’s official news paper *LA GACETA*.

Municipalities charge an *Industry, Commerce and Services Municipal Tax*. This tax is calculated over the previous year’s earnings. The tax, which depends on the Municipality where the business operates, usually ranges from 0.30 per thousand to 0.15 per thousand of the entities gross income and must be paid once a year before April 30 of each year. In order to obtain an *Operation’s permit* a business must pay its Industry, Commerce and Services Tax. The first year’s tax payment is based on estimated earnings for the current year.

Businesses owning real estate of any kind must pay a *Municipal Real Estate Tax*. This tax is calculated over the “Cadastral Value” of the land owned by the entity. This tax is approximately

3.5 per thousand over the value of *urban land* and 2.5 per thousand over the value of *rural land*. Again, each Municipality determines the amount per thousand that must be paid.

Municipalities also charge a *Solid Waste Management Tax*. This tax corresponds to what the municipality charges for garbage removal. It ranges from Lps. 50.00 to Lps. 6,000.00. The corresponding sum must be paid monthly. The amount to be paid depends on the Municipality as well as the entity's income.

Businesses must also pay a *Fire Department Tax*. The tax pays for the Fire Department's services. The amount to be paid ranges from Lps. 30.00 to Lps. 450.00. The corresponding sum must be paid monthly. The amount to be paid depends on the Municipality and the entity's income.

An *Environmental Tax* must also be paid. The tax ranges from Lps. 10.00 to Lps. 600.00. The corresponding sum must be paid monthly. The amount to be paid depends on the Municipality and the entity's income.

Businesses are responsible for withholding the *Municipal Tax on Employee Income*. The tax ranges from 1.5 per thousand to 5.25 per thousand depending on employee's income and varies from one municipality the next.

### **3. Contributions and other Payments.**

Under Honduran Law entities employing certain numbers of employees are responsible for withholding a percentage from employee's paychecks and paying that percentage to state

entities. Employers must also, in some cases, pay set additional sums on the behalf of said employees to these entities.

*Social Security Payment.* The Instituto Hondureño de Seguridad Social (IHSS) provides medical attention for its members. All entities must enroll their employees in the IHSS. Each entity must pay 7.2% of wages paid to its employees to the IHSS. Additionally, the entity must withhold 3.5% from its employee's paychecks and also pay that to the IHSS.

*Social Fund for Housing.* The Regimen de Aportaciones Privadas/ Fondo Social de la Vivienda (RAP/FOSOVI) provides low interest loans to its members. Entities having more than 10 employees must pay 1.5% of salaries paid to their employees to the RAP/FOSOVI.

*Institute for Professional Preparation.* The Instituto Nacional de Formación Profesional (INFOP) is a state operated vocational school. Entities having more than 5 employees must pay 1% of salaries paid to employees to the INFOP.

#### **4. SALES TAX.**

Under Honduran Law, the sale and import of products as well as the sale of certain services must pay a Sales Tax. Sales tax is currently 12% of the price of the products or services being sold or imported.

## **B. TAXES ON INDIVIDUALS**

Individuals must also pay taxes on both the national and the municipal level. Again, taxes depend on the person's income. Generally employers are responsible for withholding taxes from their employees. Self employed people must file their own taxes.

On a national level, individuals must pay Income Tax. The first US\$5,800.00 of a person's earnings is tax free. Income above said sum is taxed from 15% to 25% depending on the person's income. Individuals are allowed to deduct up to the equivalent of US\$2,100.00 in medical expenses every year.

On the municipal level, individuals must pay a "neighbor tax" or *Municipal Tax on Employee Income* in the municipality in which they reside. Individuals owning real estate must pay a *Municipal Real Estate Tax*, as explained above.

## ***VI. DEALER PROTECTION LAWS.***

Honduran Dealer Protection Laws should be seriously considered by any person or entity thinking about investing in Honduras. When dealing with a potential agent, distributor and/or representative matter it is highly advisable to have capable legal counseling. Exclusive agent, distributor or representative agreements are not advisable in any case. All agreements should be in written form.

The main problem with our Dealer Protection Laws revolves mainly around their very harsh protection of the Honduran agent, distributor or dealer. Agents, distributors and representatives must register their contracts with the Ministry of Industry and Commerce. Once an agreement has been registered the principal may not unilaterally amend, terminate or refuse to renew an agency, distribution or representation agreement. Should the principal terminate, amend or refuse to renew an agency, distribution or representation agreement without cause, principal must pay agent, distributor or representative a fine which results from the sum of the following amounts:

- A fine equal to the agent, distributor or representative's gross profits for the last 5 years.
- The value of all expenses incurred by agent, distributor or representative pursuant to the contractual relationship with the principal.
- The value of all credits the agent, distributor or representative has granted in relation the contractual relationship.

- The value of all investments the agent, distributor or representative has made in relation the contractual relationship.
- The value of all merchandise the agent, distributor or representative has in relation the contractual relationship.

Once a contract has been registered, the venue of Honduran Courts is mandatory regardless of contractual language. The agent, distributor or representative, as plaintiff, may request the principal be enjoined from importing his or her products in to Honduras while a case is pending.

Although the ratification of RD-CAFTA has resulted in certain amendments to our Dealer Protection Laws (such as the elimination of the damages provided for by law in the event of unilateral termination by the principal) these changes apply only to RD-CAFTA parties (United States of America, Dominican Republic, Guatemala, El Salvador, Nicaragua and Costa Rica). Even for persons or entities from these countries this law should be seriously considered before investing in Honduras.

## **VII. STRUCTURES FOR DOING BUSINESS.**

According to Honduran commercial legislation, persons or entities who systematically conduct their business in Honduras must establish themselves as merchants. There are basically two ways to become a merchant in Honduras. The First is to open a local branch of a foreign entity. The second is to become a “regular merchant” under Honduran Law.

### **A. BRANCHES OF FOREIGN ENTITIES.**

Foreign entities wishing to open a branch are allowed to do so under the Honduran Commercial Code. In order to open a branch, the entity must request authorization before the Ministry of Industry and Commerce. The entity must, in short, prove:

- That it is legally existing in its country of origin.
- That its bylaws allow for the opening of a branch.
- That the entity will have a representative permanently residing in Honduras.
- That the branch agrees to be subject to Honduran Laws and authorities.
- That it has established a founding capital for the branches operations (Approx US\$1,300.00).

Once authorization has been granted, the corresponding resolution must be published in a local newspaper. Once publications have been made, the resolution must be registered in the Commercial Registry.

The process is relatively simple; however, it does pose some inconveniences. The main problem is the time it takes for the process to be completed which is approximately 8 weeks. All documentation coming from another country must be either Apostilled or authenticated by a Honduran Consul. Another situation that must be considered is the fact that any and all changes to the branch's operations must undergo the same process that was required to obtain the authorization. Investors must also consider that the main office is directly responsible, and thus liable, for the branch's actions in Honduras. The local branch pays taxes locally. In some country's this poses a tax problem so this must also be considered.

## B. REGULAR MERCHANT STRUCTURES.

### *1. The Individual Merchant.*

The simplest structure for conducting business in Honduras is the individual merchant. This structure is limited to persons wanting to systematically dedicate themselves to commerce. The process to acquire this status is quite simple. The person wanting to adopt this structure must go before a Notary Public and sign an individual merchant's declaration. Publications must be made in local news papers and the declaration must be registered in the Commercial Registry.

The biggest problem with becoming an individual merchant is the fact that the person declaring him or herself a merchant is personally liable for all the obligations incurred by the business. The structure does not separate the person's personal assets from those of the business; it simply makes the individual a merchant. This structure is not generally advisable for conducting anything different from very small operations. By way of example, independent taxi cab drivers are usually individual merchants.

## 2. *Entities.*

The Honduran Commercial Code provides for basically two types of commercial entities: personal entities and capital entities. The difference stems from the entities beginnings and the reason for which the partners decide to form said entities and invest together. In the case of personal entities, partners usually join for personal reasons (family, friendship, etc.). In the case of capital entities, partners join for monetary reasons (venture capital, investment, etc.). Although, personal entities are hardly used anymore, we felt it advisable to include a brief reference to them. In some foreign jurisdictions the nature of some of these entities results in more favorable tax treatment and hence might be worth considering.

### *a. Personal entities.*

#### *i. Collective Society or Entity.*

The *collective society* is formed by a group of investors who decide to form an entity while remaining jointly and severally liable, on a personal level, for the entity's dealings. The partner's names must be mentioned in the entity's name. Ownership in a collective society cannot be transferred without the approval of all the partners and requires the amendment of the articles of incorporation. The articles of incorporation cannot be amended without the approval of all partners as well. The entity is administered by all the partners by default. An administrator may be appointed. A comptroller may also be appointed but is not required.

#### *ii. Comandita Simple Society or Entity.*

The “*comandita*” simple entity is very similar to the *collective society* save for the fact that there are two types of shareholders. The “*comanditado*” partners are jointly and severally

liable, on a personal level, for the entity's dealings. On the other hand, the "*comanditario*" partners are only liable for the entity's dealings up to the value of their shares in the entity. The "*comanditario*" partners may not be administrators in the entity and are simply considered investors.

*iii. Comandita Society or Entity with Stock.*

The "*comandita*" with stock is very similar to the "*comandita*" simple save for the fact that the shares in the entity are documented in stock certificates. These stock certificates are negotiable instruments. In the "*comandita*" with stock, stockholder approval for transfers is only required for "*comanditado*" stock.

*b. Capital Entities.*

*i. Sociedad de Responsabilidad Limitada.*

The “*sociedad de responsabilidad limitada*”, or “*SdeRL*” for short, is the simplest capital entity under Honduran Law. Incorporating an SdeRL requires a minimum of two persons or entities. There is a maximum of 25 shareholders. The Commercial Code, however allows for the co-ownership of shares. The minimum capital required to incorporate is approximately US\$250.00. Unlike personal entities, in the SdeRL shareholders are only liable, up to the value of their shares, for the entity’s dealings. The corporate veil can only be pierced in the event that it can be proven that the shareholders have used the entity to defraud other parties.

One of the advantages of an SdeRL is the simple administrative structure. The entity is run by the shareholders through the assembly of shareholders. Day to day management is handled by one or more managers. The appointment of a comptroller is optional for the SdeRL.

In order to incorporate the entity, the shareholders can either come to Honduras and sign the necessary documentation or send a power of attorney issued to our members. As mentioned above, please note that all documents issued in other jurisdictions must be either legalized by a Honduran Consul or have an Apostille. Incorporation is completed in approximately 2 to 3 weeks. Generally, there are no limitations on the nationality of shareholders and managers. Please see the limitations described above.

The advantages to an SdeRL are its simple administrative structure and low initial capital requirement. There are some disadvantages to consider though. The main disadvantage is the

transfer of ownership in the entity. Shares in an SdeRL are not negotiable instruments. Therefore, the sale or transfer of shares in an SdeRL requires the approval of the Assembly of Shareholders, the amendment of the articles of incorporation and registration of a contract of sale. The process takes approximately 2 to 3 weeks.

## *ii. Sociedad Anónima*

The “*sociedad anónima*”, or “SA” for short, is a more complex capital entity. Incorporating an SA also requires a minimum of two persons or entities. There SA does not have limit regarding the number of stockholders. The minimum capital required to incorporate is approximately US\$1,250.00. As in the SdeRL, stockholders are only liable, up to the value of their stock, for the entity’s dealings. Also as is the case with the SdeRL, the corporate veil can only be pierced in the event that it can be proven that the stockholders have used the entity to defraud other parties.

The SA has a more complex administrative structure. The entity’s top authority is the stockholders through the assembly of stockholders. The entity is administered by a board of directors. Day to day management is handled by one or more managers who generally answer to the board of directors. The appointment of a comptroller is required for the SA. The comptroller is appointed by the stockholders and is in charge of supervising the board or director’s actions and later reporting to the stockholder assembly.

As is the case with de SdeRL, in order to incorporate the entity, the stockholders can either come to Honduras and sign the necessary documentation or send a power of attorney issued to our members. As mentioned before, please note that all documents issued in other jurisdictions must be either legalized by a Honduran Consul or have an Apostille. Incorporation of an SA is also completed in approximately 2 to 3 weeks. Generally, there are no limitations on

the nationality of stockholders, members of the board of directors or managers. Please see the limitations described above.

The disadvantages to an SA are its more complex administrative structure and higher initial capital requirement. The main advantage is the ease related to the transfer of ownership in the entity. Stock certificates in an SA are negotiable instruments. Therefore, the sale or transfer of stock requires the endorsement and delivery of the share certificate and, in some cases, registration in the entity's stockholder registry book. The process generally takes hours to complete.

## ***VIII. BANKING FACILITIES.***

Honduran Law provides for three types of banking facilities: Banks, Financial Institutions and Savings and Loan Associations. All three types of entities make up the Financial System. The Financial System is supervised by two state run entities the *Banco Central de Honduras* (Honduran Central Bank) and the *Comisión Nacional de Bancos y Seguros* (National Commission for Banking and Insurance). The financial sector is perhaps the most heavily regulated area under Honduran Law. Many laws and regulations are constantly being placed into effect and amended in order to maintain the system's stability and reliability. Insurer's deposits up to the equivalent of US\$10,000.00 are guaranteed by the *Fondo de Seguro de Depósitos* (Insurance Deposit Fund).

Financial Institutions deal mainly in retail credit for their clients. Savings and Loan Associations deal mostly in financing and mortgages for personal housing. Banks are the largest entities in the system. They can perform all financial operations including some that are exclusive to them such as factoring, leasing and trusts. Foreign banks are allowed to operate branches locally once they authorized to do so by the Honduran Central Bank.

In recent years, local banks have been acquired by regional institutions. Several banks have merged recently. Currently HSBC, Citi Bank, BAC have the most significant regional operations. Banco Atlántida, Banco de Occidente, FICENSA and FICOHSA are some of the local banks that have resisted the current trend.