

MEXICO EQUITY & INCOME FUND INC

Form N-2/A

November 16, 2005

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**U.S. SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549  
FORM N-2**

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

PRE-EFFECTIVE AMENDMENT NO. 2

POST-EFFECTIVE AMENDMENT NO. \_\_\_\_\_

REGISTRATION STATEMENT UNDER THE INVESTMENT COMPANY ACT OF 1940

AMENDMENT NO. 1

**THE MEXICO EQUITY AND INCOME FUND, INC.**

(Exact Name of Registrant as Specified in Charter)

615 East Michigan St., 2<sup>nd</sup> Floor

Milwaukee, WI 53202

(Address of Principal Executive Offices)

Registrant's Telephone Number, including Area Code: (866) 700-6104

Gerald Hellerman

The Mexico Equity and Income Fund, Inc.

615 East Michigan St., 2<sup>nd</sup> Floor

Milwaukee, WI 53202

(Name and Address of Agent for Service)

Copies of information to:

Thomas R. Westle, Esq.

Rustin I. Paul, Esq.

Blank Rome LLP

405 Lexington Avenue

New York, NY 10174

(212) 885-5239

**Approximate Date of Proposed Public Offering:** As soon as practicable after the effective date of this Registration Statement.

If any securities being registered on this form will be offered on a delayed or continuous basis in reliance on Rule 415 under the Securities Act of 1933, other than securities offered in connection with a dividend reinvestment plan, check the following box.

It is proposed that this filing will become effective (check appropriate box):

when declared effective pursuant to section 8(c).

If appropriate, check the following box:

This post-effective amendment designates a new effective date for a previously filed post-effective amendment registration statement.

This form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act and the Securities Act registration statement number of the earlier effective registration statement for the same offering is \_\_\_\_\_.

WE HEREBY AMEND THIS REGISTRATION STATEMENT ON SUCH DATE OR DATES AS MAY BE NECESSARY TO DELAY ITS EFFECTIVE DATE UNTIL WE SHALL FILE A FURTHER AMENDMENT WHICH SPECIFICALLY STATES THAT THIS REGISTRATION STATEMENT SHALL THEREAFTER BECOME EFFECTIVE IN ACCORDANCE WITH SECTION 8(a) OF THE SECURITIES ACT OF 1933, AS AMENDED, OR UNTIL THIS REGISTRATION STATEMENT SHALL BECOME EFFECTIVE ON SUCH DATE AS THE COMMISSION, ACTING PURSUANT TO SECTION 8(a), MAY DETERMINE.



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EXPLANATORY NOTE:

This amendment is being filed in order to add the attached exhibits to this registration statement. The Preliminary Prospectus filed as part of amendment #1 to this registration statement on Form N-2/A filed with the Securities and Exchange Commission on October 31, 2005 is hereby incorporated by reference.

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**Articles Supplementary of the Articles of Incorporation**

**Specimen Common Stock Certificate**

**Specimen Preferred Stock Certificate**

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**PART C  
OTHER INFORMATION**

**ITEM 25. FINANCIAL STATEMENTS AND EXHIBITS**

1. Financial Statements.
2. Exhibits

- a. 1) Restatement of Articles of the Registrant  
2) Articles Supplementary of the Articles of Incorporation of the Registrant
- b. Amended and Restated Bylaws (Incorporated by reference to Exhibit 2(b) to Pre-Effective Amendment No. 2 to the Registrant's Registration Statement on Form N-2 (File No. 33-35089, filed August 6, 1990)
- c. Not Applicable
- d. 1) Form of Subscription Certificate \*  
2) Form of Notice of Guaranteed Delivery \*  
3) Specimen Common Stock Certificate  
4) Specimen Preferred Stock Certificate
- e. Not Applicable
- f. Not Applicable
- g. Investment Advisory Agreement between Registrant and Pichardo Asset Management, S.A. de C.V. dated as of July 1, 2003 \*
- h. Not Applicable
- i. Not Applicable
- j. Custodian Agreement between Registrant and U.S. Bank, N.A. dated as of July 11, 2001 \*
- k. 1) Fund Administration Agreement between Registrant and U.S. Bancorp Fund Services, LLC dated as of July 11, 2001 \*  
2) Transfer Agency and Security Services Agreement between Registrant and Computershare Investors Services, LLC, dated as of August 14, 2002 \*
- l. Opinion and Consent of Blank Rome LLP, counsel for Registrant \*
- m. Not Applicable
- n. Consent of Tait, Weller & Baker LLP, the independent registered public accounting firm for Registrant\*
- o. Not Applicable
- p. Not Applicable
- q. Not Applicable
- r. Codes of Ethics of Registrant \*

\* Previously filed.

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**ITEM 26. MARKETING ARRANGEMENTS**

Not Applicable

**ITEM 27. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION**

Commission registration fee	\$ 3,917.17
Accounting fees and expenses	\$ 2,000
Legal fees and expenses	\$ 75,000
NYSE Listing fee	\$ 27,363
Subscribing Agent fees and expenses	\$ 15,000
Printing and engraving	\$ 10,000
Miscellaneous fees and expenses	\$ 1,700
Total	\$ 134,980.17

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All of the expenses set forth above shall be borne by the Fund.

**ITEM 28. PERSONS CONTROLLED BY OR UNDER COMMON CONTROL**

Not Applicable

**ITEM 29. NUMBER OF HOLDERS OF SECURITIES**

The following table sets forth the approximate number of record holders of the Fund's common stock, \$0.001 par value per share, at July 31, 2005.

Title of Class	Number of Record Holders
Common	572

**ITEM 30. INDEMNIFICATION**

Reference is made to Section 2-418 of the Maryland General Corporation Law, Article XI of the Company's Articles of Incorporation, Article VII of the Company's bylaws, the Investment Advisory Agreement and Administration Agreement.

Maryland law permits a Maryland corporation to include in its charter a provision limiting the liability of its directors and officers to the corporation and its stockholders for money damages except for liability resulting from (a) actual receipt of an improper benefit or profit in money, property or services or (b) active and deliberate dishonesty established by a final judgment and which is material to the cause of action. The Registrant's charter contains such a provision which eliminates directors' and officers' liability to the maximum extent permitted by Maryland law, subject to the requirements of the 1940 Act.

Our charter authorizes us, to the fullest extent permitted by Maryland law and subject to the requirements of the 1940 Act, to indemnify any present or former director or officer or any individual from and against any claim or liability to which that person may become subject or which that person may incur by reason of his or her status as a present or former director or officer and to pay or reimburse their reasonable expenses in advance of final disposition of a proceeding. Our bylaws obligate us, to the maximum extent permitted by Maryland law and subject to the requirements of the 1940 Act, to indemnify any present or former director or officer or any individual who is made a party to the proceeding by reason of his service in that capacity from and against any claim or liability to which that person may become subject or which that person may incur by reason of his or her status as a present or former director or officer and to pay or reimburse their reasonable expenses in advance of final disposition of a proceeding. The charter and bylaws also permit us to indemnify and advance expenses to any person who served a predecessor of us in any of the capacities described above and any of our employees or agents or any employees or agents of our predecessor.

Maryland law requires a corporation (unless its charter provides otherwise, which our charter does not) to indemnify a director or officer who has been successful in the defense of any proceeding to which he or she is made a party by reason of his or her service in that capacity. Maryland law permits a corporation to indemnify its present and former directors and officers, among others, against judgments, penalties, fines, settlements and reasonable expenses actually incurred by them in connection with any proceeding to which they may be made a party by reason of their service in those or other capacities unless it is established that (a) the act or omission of the director or officer was material to the matter giving rise to the proceeding and (1) was committed in bad faith or (2) was the result of active and deliberate dishonesty, (b) the director or officer actually received an improper personal benefit in money, property or services or (c) in the case of any criminal proceeding, the director or officer had reasonable cause to believe that the act or omission was unlawful. However, under Maryland law, a Maryland corporation may not indemnify for an adverse judgment in a suit by or in the right of the corporation or for a judgment of liability on the basis that a personal benefit was improperly received, unless in either case a court orders indemnification, and then only for expenses. In addition, Maryland law permits a corporation to advance reasonable expenses to a director



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or officer upon the corporation's receipt of (a) a written affirmation by the director or officer of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification by the corporation and (b) a written undertaking by him or her or on his or her behalf to repay the amount paid or reimbursed by the corporation if it is ultimately determined that the standard of conduct was not met.

The Investment Advisory Agreement provides that, absent willful misfeasance, bad faith or gross negligence in the performance of its duties or by reason of the reckless disregard of its duties and obligations, our investment adviser and its officers, managers, agents, employees, controlling persons, members and any other person or entity affiliated with it are entitled to indemnification from the Fund for any damages, liabilities, costs and expenses (including reasonable attorneys' fees and amounts reasonably paid in settlement) arising from the rendering of the adviser's services under the Investment Advisory Agreement or otherwise as an investment adviser of the Fund.

The Administration Agreement provides that, absent willful misfeasance, bad faith or gross negligence in the performance of its duties or by reason of the reckless disregard of its duties and obligations, the Administrator and its officers, manager, agents, employees, controlling persons, members and any other person or entity affiliated with it are entitled to indemnification from the Fund for any damages, liabilities, costs and expenses (including reasonable attorneys' fees and amounts reasonably paid in settlement) arising from the rendering of the Administrator's services under the Administration Agreement or otherwise as administrator for the Fund.

The law also provides for comparable indemnification for corporate officers and agents.

**ITEM 31. BUSINESS AND OTHER CONNECTIONS OF INVESTMENT ADVISER**

Not Applicable

**ITEM 32. LOCATION OF ACCOUNTS AND RECORDS**

All accounts, books and other documents required to be maintained by Section 31(a) of the 1940 Act, and the rules thereunder are maintained at the offices of:

- (1) the Registrant, 615 East Michigan St., 2<sup>nd</sup> Floor, Milwaukee, WI 53202;
- (2) the transfer agent, Computershare Investor Services, LLC, 2 North LaSalle Street, Chicago, IL 60602;
- (3) the Custodian, U.S. Bank, N.A., 425 Walnut Street, Cincinnati, OH 45202; and
- (4) the investment adviser, Pichardo Asset Management, S.A. de C.V., Teopanzolco Avenue #408, 3<sup>rd</sup> Floor, Cuernavaca 62260, Morelos, Mexico.

**ITEM 33. MANAGEMENT SERVICES**

Not Applicable.

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**ITEM 34. UNDERTAKINGS**

1. The Registrant undertakes to suspend the issuance of Preferred Stock until the Prospectus is amended if (1) subsequent to the effective date of its registration statement, the net asset value declines more than ten percent from its net asset value as of the effective date of the registration statement; or (2) the net asset value increases to an amount greater than the net proceeds as stated in the Prospectus.
  
  2. The Registrant undertakes that:
    - (a) For the purpose of determining any liability under the Securities Act of 1933, the information omitted from the form of Prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of Prospectus filed by the
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Registrant pursuant to Rule 497(h) under the Securities Act of 1933 shall be deemed to be part of this registration statement as of the time it was declared effective.

- (b) For the purpose of determining any liability under the Securities Act of 1933, each post-effective amendment that contains a form of Prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
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**SIGNATURES**

As required by the Securities Act of 1933, this registration statement has been signed on behalf of the registrant, in the City of New York and the State of New York, on the 16<sup>th</sup> day of November, 2005.

**MEXICO EQUITY AND INCOME FUND,  
INC.**

By: /s/ Maria Eugenia Pichardo  
Name: Maria Eugenia Pichardo  
Title: President

As required by the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated:

<b>Name</b>	<b>Title</b>	<b>Date</b>
<b>/s/ Maria Eugenia Pichardo</b>	President	November 16, 2005
<b>Maria Eugenia Pichardo</b> <b>/s/ Gerald Hellerman</b>	Director, Chief Financial Officer and Chief Compliance Officer	November 16, 2005
<b>Gerald Hellerman</b> *	Director	November 16, 2005
<b>Phillip Goldstein</b> *	Director	November 16, 2005
<b>Rajeev Das</b> *	Director	November 16, 2005
<b>Andrew Dakos</b> *	Director	November 16, 2005
<b>Glenn Goodstein</b>		

By: **\*/s/ Gerald Hellerman**  
Gerald Hellerman  
Attorney-in-Fact

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**Exhibit Index**

<b>Exhibit Number</b>	<b>Description</b>
2(a)(1)	Restatement of Articles of the Registrant
2(a)(2)	Articles Supplementary of the Articles of Incorporation of the Registrant
2(d)(1)	Form of Subscription Certificate*
2(d)(2)	Form of Notice of Guaranteed Delivery*
2(d)(3)	Specimen Common Stock Certificate
2(d)(4)	Specimen Preferred Stock Certificate
2(g)	Investment Advisory Agreement between Registrant and Pichardo Asset Management, S.A. de C.V.*
2(j)	Custodian Agreement between Registrant and U.S. Bank, N.A.*
2(k)(1)	Fund Administration Servicing Agreement between Registrant and U.S. Bancorp Fund Services, LLC*
2(k)(2)	Transfer Agency and Security Services Agreement between Registrant and Computershare Investors Services, LLC*
2(l)	Opinion and Consent of Blank Rome LLP, counsel for Registrant*
2(n)	Consent of Tait, Weller & Baker LLP, the independent registered public accounting firm for Registrant*
2(r)	Codes of Ethics of Registrant*

\* Previously filed.