



GHANA IMMIGRATION SERVICE – NEW MEASURES IN RESPECT OF PAYMENTS OF FEES FOR CERTAIN SERVICES – EMERGENCY ENTRY VISAS, WORK PERMITS AND RESIDENCE PERMITS.

**SPECIAL
POINTS OF
INTEREST :**

> **Corporate Immigration:
New Measures as to
Payments at Ghana
Immigration Service**

> **Equity Finance: How
to choose a stock**

> **Maritime Law:
Ebola Virus– Legal
Challenges**

**INSIDE THIS
ISSUE :**

**New Measures as to
Payments of Fees at
Ghana Immigration
Service** 1

**Ebola– The Legal
Challenges** 2
-

**The Corporate Immi-
gration Review–
Ghana (Series 3)** 4

**How to choose a
stock** 5
-

**The Corporate Immi-
gration Manual by
Paa Kwesi Hagan &
GT Legal** 7

We published the article below a while ago informing clients and the public about some new measures at Ghana Immigration Service which were to take effect from 1st June, 2014. In respect of the effective date of operation however, these measures have only recently been implemented. That apart, we have incorporated updates clarifying a few of the issues relating to implementation of the measures. We therefore deem it necessary to re-publish the following article for your information.

Immigration Law and procedures change day in, day out. They need constant monitoring and evaluation. As part of our corporate and legal responsibility to our clients and society at large, we frequently monitor legal developments; inform and advise accordingly. This piece should therefore be deemed as one assisting to inform our clients and the general public about a few changes at the Ghana Immigration Service (GIS) in respect of services involving applications for *Emergency Entry Visas, Work Permits and Residence Permits* made to the Ghana Immigration Service.

What's new?

The Ghana Immigration Service informs the public that:

A

Effective **1st June, 2014**, with respect to Work and Residence Permits, management of GIS has decided to conjoin the application processes since approval of one leads to the other, respectively. In effect, a one-time payment will be made for the processing of Work and Residence Permits. Exceptional applications may be approved or disapproved based on the assessment of the case officer.

B

All corporate and individual applicants seeking the above mentioned services, with effect from **1st June, 2014**, will be required to make full payment of the prescribed fees before the application is accepted and processed.

Employers to note:

The work and residence permits applications have now been fused into one application for the purposes of payment of Government fees.

The practice in the past, until the above change was effected from the stated date, had been that payments were made after approval and grant of work permit and at the point of submission of residence permits.

The key point worth noting is the change in payment time of the applications as regards the relevant services: that is, full payment of the prescribed fees will no longer be contingent on approval; rather, full payment of the fees will now be made upon submission of applications.

GT Legal Analysis:

Submissions of applications to Ghana Immigration Service (GIS):

In respect of work and residence permits applications submitted to the GIS directly, payment of the required fee must be made at the time of submission of the applications.

Submissions of applications to Petroleum Commission:

The position now has been clarified by the relevant agencies as follows: Applicants will not be required to pay the prescribed fees directly to the Petroleum Commission when they submit their applications to the Commission. As part of the process, if it supports the application, the Petroleum Commission will forward the applications to GIS for further processing and final approval. At this point, GIS will notify applicants to pay the prescribed fees to the Service before further processing and approval.

Submissions of applications to Free Zones Board:

The process with the Ghana Free Zones remains the same. Payment has to be made directly to the Free Zones Board when the relevant work/residence permit application forms (Form 11) are purchased from the Board.

Processing times will not be affected.

EBOLA — THE LEGAL CHALLENGES

The Ebola outbreak has implications for international trade. This article looks at the issues for ships, crews and ports.

The Ebola virus is posing many legal issues for shipping and international trade. As there is no immediate prospect of the outbreak coming to an end, it is advisable to take steps now to minimise exposure to potential risks.

Background

The Ebola virus is a dangerous disease originally transmitted to humans from wild animals and also capable of transmission between humans. The disease has a high risk of death, killing 50%-90% of those infected. The latest outbreak, the most severe to date, is concentrated heavily in west African countries, including Guinea, Liberia and Sierra Leone.

Several international shipping organisations such as the International Chamber of Shipping, the International Maritime Employers' Council and the International Transport Workers' Federation, have issued guidance on the risks associated with vessels calling at affected countries. The advice outlines a ship owner's duty of care and the importance of crew safety. They recommend that: standards must be adhered to control the problem of stowaways; the master should ensure that the crew are aware of the risks of the virus and how to reduce the risk of exposure; the master should give careful consideration to granting any shore leave while in affected ports; and the owners/operators should avoid making crew changes in the ports of affected countries.

Industry leaders, including the World Health Organisation, International Air Travel Association, and the World Travel and Tourism Council, have issued statements regarding the outbreak to advise travellers of the symptoms, the risks, prevention, and treatment. A travel and transport taskforce has been set up to keep the situation under review and provide further updates.

Legal considerations

Some of the legal issues arising out of the outbreak relevant to shipping and international trade are set out below. This is not exhaustive. In particular, all parties may wish to review the terms of their insurance policies (including protection and indemnity cover if applicable) to understand what duties they are under and for what losses they may be protected. Furthermore, in some cases local authorities may interpret contracts in accordance with Ghana (or any local) law.

(i) Charterparties

Unsafe ports

Time charters will often contain express or implied safe port warranties, which will continue to apply despite the master's duty to follow a charterer's lawful orders. The safety of a port may be assessed at the point of nomination. For a port to be considered safe, the vessel must be able to reach it, use it and return from it. If the vessel is exposed to danger (unless it is an abnormal occurrence), that danger must be capable of being avoided by good navigation and seamanship.

Traditionally, focus may be put on the physical safety of the vessel and her cargo rather than the health of her crew. However, the question here would be whether, for a port to be unsafe, it is enough if there is a risk to the crew but no physical risk to the vessel. There are strong arguments either way as to whether a risk to the crew is enough to make a port unsafe.

There is also a conceivable hybrid argument that if the risk to the crew were severe enough, that could create a risk to the vessel. If the disease were to affect the crew, it could lead to a crew so depleted by illness that they could not safely man her. In view of these issues, owners may seek to raise legal arguments as to the safety of a nominated port in a country affected by the virus. Owners will need to consider two factors:

1. Is the port unsafe, in the legal sense? This will largely depend on the particular facts at the relevant time.
2. Can the master refuse to enter a port affected by Ebola? This will depend on the terms of the negotiated charterparty, for example, the existence of liberty clauses which allow a master to refuse to enter.

As to a charterer's obligations under a time charter, where there is supervening unsafety, that is, a port is affected after the charterers have nominated it, they will be bound to re-nominate. The exact duty on voyage charterers has not yet been established by law, but it is open to the parties to agree a new port as a variation to the charterparty. All charterers should monitor port safety warnings and be aware of their obligations when nominating ports.

To avoid uncertainty in both time and voyage charters, parties may wish to draft appropriate clauses restricting vessels from calling at affected ports and dealing with supervening unsafety. Imposing trading limits may not be straightforward at a time when the number of countries reporting the presence of the disease is increasing, and may require drafting a specific clause dealing with the disease.

Delays

Liabilities for delay will depend on the relevant facts and the charterparty wording. Potential relevant causes of delay, which may even amount to force majeure, may include refusals to grant free pratique (permission for a ship to have dealings with a port...), refusal of pilots to board vessels arriving from affected areas, the placing of vessels under quarantine, port closures, or the refusal of members of the crew to visit affected ports.

It may be possible to anticipate and avoid delays. For example, South African port authorities reportedly require vessels to apply for free pratique three days before their expected arrival.

The WHO has published recommendations for precautions that owners can take to protect their vessels and crews, the adoption of which may also lead to delays. These include the declaration of sick crew members and passengers, a declaration of health for arriving vessels, and documentation of measures taken on board to reduce the risk of exposure.

(Continued on page 3)

Continued: EBOLA — THE LEGAL CHALLENGES

The position under time charters – off hire

The charterer has a duty to pay hire continuously throughout the charter period, unless it can prove that an exception applies. This will depend on the individual charterparty terms and the nature, extent and impact of the relevant event. However:

- Under the New York Produce Exchange (NYPE) form, charterers may seek to rely on the ‘deficiency of men’ exception where crew members fall ill from disease and delays ensue;
- A delay caused by the port authorities’ refusal to grant free pratique as a result of suspected disease on the ship may fall within the ‘any other cause whatsoever preventing the full working of the vessel’ exception—as held in one 1978 case;
- ‘Quarantine restrictions’. Delays caused by the placing of a vessel under quarantine due to a call at an affected port may therefore fall within this exception.

The position under voyage charters – time lost

Should the port medical authorities refuse entry to a vessel, the owners will need to look at the specific provisions of their charterparty, particularly in relation to the commencement of laytime (amount of time—hours or days allowed for a voyage charter for loading and unloading cargo) whether in free pratique or not. However, if the delay is such that it frustrates the commercial purpose of the adventure, charterers may seek to rely on the doctrine of frustration to bring the charterparty to an end.

Where a vessel is under quarantine before laytime has commenced, time may not run because loading or discharge cannot commence. Owners and charterers will want to consider whether detention is instead applicable.

To pre-empt the above (and other) issues and avoid ambiguities, parties are advised to draft specific additional clauses to their contracts.

Force majeure

Port closures may lead to increased risks of delay, or deviation to alternative ports being necessary. Force majeure defences may be applicable. Parties may wish to draft appropriate force majeure clauses at this stage to avoid later uncertainty.

(ii) Bills of lading

Parties should also take account of their obligations under respective bills of lading issued for the cargo carried on board. Delays or late delivery or deviations may lead to claims from cargo interests for damages for deterioration to cargo or landing cargo in the wrong place.

Owners’/carriers’ liability to third party cargo interests may be excepted under relevant provisions of article IV rule 2 of the Hague/Hague-Visby Rules. These may include ‘restraint of princes’; ‘quarantine restrictions’; ‘stoppage or restraint of labour from whatever cause’ (which may include industrial action because of fear of disease, and includes, without limitation, crew, stevedores, customs officials, sanitary officials); ‘saving life or attempting to save life’ and associated deviation.

(iii) Duty of care

Employers have a duty of care under individual contracts of employment. This duty has been reiterated in the various industry guidelines imposing stringent requirements on owners as a result of the outbreak. There is unlikely to be any significant impact on passenger claims since very few cruise ships visit the affected regions. Nonetheless, owners will need to bear traveller safety in mind and take the necessary precautions to prevent any passenger claims that arise from being outside the scope of their P&I insurance policies. Owners may also encounter difficulties and delays if crew members refuse to visit affected ports or ports in affected countries.

(iv) Contracts of sale

If owners boycott west African ports, there will be a knock-on effect on sale contracts. In contracts on cost insurance and freight terms, sellers may find themselves unable to find a vessel to load and/or deliver their goods, in breach of their obligation to arrange for carriage. Similarly in contracts on free on board terms, buyers may similarly be unable to find a vessel.

Nominated vessels may be rejected by counterparties if they have previously called at west African ports. In all cases, parties should be aware of their rights and obligations with regard to nomination or re-nomination of vessels and the applicable time limits, including pre-advice requirements.

Contractual parties may also experience variations in the prices of goods being exported into or out of affected areas, depending on the perceived risk of calling there to load or discharge. These variations may prompt parties to re-evaluate their existing contractual arrangements, and consider whether they wish to continue to be bound to their obligations.

Parties may seek to claim that performance has been prevented by a force majeure event. While this depends on the terms of the contract, this may prove difficult to argue since this does not automatically lead to cancellation of the contract but first allows a temporary suspension of the contract.

Conclusions

At this stage, it is far from clear how long the Ebola outbreak will last or which further countries it will affect. This leads to a great deal of uncertainty in the shipping industry, which must take precautions for the current situation but anticipate that greater quarantine and preventive measures may come into force in the future.

As there is no immediate prospect of the outbreak coming to an end, it is advisable to take steps now to minimise exposure to potential risks, including those set out in this article. This includes drafting appropriate charterparty and/or bill of lading clauses.

Most importantly, it is essential to keep up to date with warnings and guidance issued by port authorities, national and international authorities, and industry leaders, so that protective measures are implemented in a timely and consistent manner.

THE CORPORATE IMMIGRATION REVIEW-GHANA SERIES 3: BY MR PAA KWESI HAGAN
[Chapter 14, The Corporate Immigration Review 4th Edition (Law Business Research Ltd)]

II. INTERNATIONAL TREATY OBLIGATIONS

On 28 May 1975, Ghana signed a treaty establishing the Economic Community of West African States (ECOWAS) in Lagos, Nigeria with 14 other member nations. This treaty was created to promote economic trade, national cooperation, and monetary union, for growth and development throughout West Africa.

Citizens of member nations may freely enter Ghana, have a right to work and undertake commercial activity provided they possess a valid travel document, residence card or permit, and have registered the company. They also have the right to reside in Ghana as long as they have an approved passport and have gained admission through the approved port of entry. However, it is not permissible for community citizens to reside illegally or enter into Ghana illegally. Thus Ghana can refuse entry to any community citizen that falls within the category of inadmissible immigrant under its laws.

III. THE YEAR IN REVIEW

The requirements regarding immigration status, related types of visas and the engagement of foreign personnel have not been extensively modified over the past year.

However, new rules recently made it mandatory for work and residence permit applicants to obtain a non-citizen national identification registration card. This decision was taken to verify the residence of all expatriates living in Ghana.

i. Non-citizen registration

All eligible foreign nationals living and working in Ghana are required to register at

the cost of \$120 or its cedi equivalent at any of the National Identification Authority certified registration centres in the country. Foreign nationals who do not have the non-citizen national identification card may not be able to access vital services such as registration of SIM cards, issuance of a driver's licence, opening of individual or personal bank accounts, purchase of insurance policies, purchase, transfer and registration of land, application for public or government services, facilities, approvals or permissions, among others.

However, the following categories of people are exempted from obtaining the card:

- a.* a foreign national who is a diplomat or employed by a diplomatic or consular mission;
- b.* a foreign national employed by the United Nations or any of its agencies;
- c.* a foreign national employed by the African Union or any of its agencies, as well as other international or multilateral agencies duly accredited by Ghana; and
- d.* a spouse or dependent of a foreign national who falls in the categories specified above.

ii. Increased enforcement (illegal migrations and deportations)

The Ghana Immigration Service has through its enforcement team been tough on small-scale illegal mining in rural areas, resulting in the arrest and deportation of thousands of foreigners engaging in this activity. Statistics have shown that many of these illegal miners were of Chinese origin, which has had the effect of increasing scrutiny of Chinese applications for work authorisation in Ghana. Investigations into the Chinese illegal migrants finally resulted in the dismissal of two deputy directors of immigration by the Director of Immigration.

iii. Significant increase in fees charged by

Ghana Immigration Service

The Ghana Immigration Service has increased its fees and charges significantly. Specifically, penalties for non-compliance have been increased by 150 per cent and fees for most work permit categories have also increased by 100 per cent.

iv. Introduction of short-term and long-term rotational permits

The Ghana Immigration Service, in an attempt to improve efficiency and reduce consideration times for work permits in the oil and gas sectors, has introduced short and long-term rotational permits for rotational workers in this sector. This new category is akin to the already existing temporary and long-term permits with the short-term rotational permit valid for six months while long-term permits are valid for a year. As no further guidelines have been issued in respect of these categories existing requirements for sector workers still apply.

v. Expatriates to make social security contributions

Another recent development is the issuance of a notice by the National Pensions Regulatory Authority (NPRA) and the Social Security and National Insurance Trust (SSNIT) to enforce the payment of social security contributions by expatriate staff. This is coming on the heels of confusion and ambiguity associated with the regulations in the past where expatriates working in Ghana did not consider themselves as falling within the provisions of the Ghana pension scheme. Employees are expected to make a mandatory contribution of 5.5 per cent of their basic salary to the scheme on a monthly basis while the employer makes a compulsory contribution of 13 per cent on a monthly basis. The modalities for the collection are being debated and will be rolled out soon.



The Corporate Immigration Review, 4th Edition.

HOW TO CHOOSE A STOCK

Understanding the basics of stock is a prerequisite to being a good investor. Wouldn't you love to be a business owner without ever having to show up at work? Imagine if you could sit back, take a holiday in the Bahamas, watch your company grow, and collect the dividends (a form of remuneration) as the money rolls in.

This situation might sound like a pipe dream, but it's closer to reality than you might think. As you have probably guessed we are talking about owning stocks.

This excellent category of financial instruments is, without reservation, one of the greatest tools ever created for building wealth. Stocks are a part, if not the cornerstone, of nearly any investment portfolio. When you start on your road to financial freedom, you need to have a solid understanding of stocks.

This article will focus on a detailed explanation of how to choose a stock and the types of stock.

How to Choose a Stock

Choosing the right company to invest in may sound like the first step in building a portfolio, but financial advisors say that a beginning investor shouldn't actually "begin" with individual stocks. If you're just starting to build your investment portfolio, buying a single stock is much riskier than buying a low-cost mutual fund that tracks a large group of stocks, and it's more likely that you'll see sharp, sudden changes in the value of your investment if you own just a few stocks.

If you already have a diversified portfolio of mutual funds, then you may want to add in a few individual stocks. With the risk of an individual stock, there's also the potential for greater returns. However, if you build your portfolio by picking stocks yourself, you'll save some money compared to an investor who pays a fund manager through the fund's expense ratio, to pick stocks.

As an investor, you must always be mindful of the fact that when you buy a stock, you become a part owner of that company and your focus should be on the long term performance of the company rather than on the short term share price fluctuations. Thus the value of your investment depends on the long term health of the business. In selecting stocks investors must be mindful of the following:

1.

Buy what you know: Start with an industry or a company that's familiar to you especially if you are new to stocks. We recommend that you buy what you know because if you identify that a company is doing well in terms of the product quality distribution and performance it may be a start off point to investigate more about that company. Further, it is not advisable to buy stocks without fully understanding how those companies plan to expand or make good revenue.

2.

Consider price and valuation: Investment experts often look for stocks that are "cheap" or "undervalued." Generally, what they mean is that investors are paying a relatively low price for each cedi the company earns. This is measured by the stock's price-to-earnings ratio, or Price Earning (P/E). The P/E can be calculated by dividing a company's share price by its net income).

3.

Know more about the company you want to invest in: A company that is expected to grow rapidly will be more expensive than an established company that's growing more slowly. Compare a company's P/E to other companies in the same industry to see if it's cheaper or more expensive than other companies in the same business.

4.

Cheap isn't always good and expensive isn't always bad: Sometimes a stock is cheap because its business is growing less or actually slowing down. And sometimes a stock is expensive because it's widely expected to grow its earnings rapidly in the next few years. You want to buy stocks that you can reasonably expect will be worth more later, so look at value combined with expectations for future earnings.

5.

Evaluate financial health: Start digging into the company's financial reports. All public companies have to release quarterly and annual reports. Check the Investor Relations section of the company's web site, or find official reports filed with the Securities and Exchange Commission (SEC), Ghana Stock Exchange (GSE) or other regulators such as the Bank of Ghana. Don't just focus on the most recent report: What you're really looking for is a consistent history of profitability and financial health, not just one good quarter.

o Look for revenue growth: Anything can happen day to day, but in the long run, stock prices increase when companies are making more money, which usually starts with growing revenue. You'll hear analysts refer to revenue as the "top line."

o Check the bottom line: The difference between revenue and expenses is a company's profit margin. A company that's growing revenue while controlling costs will also have expanding margins.

o Know how much debt the company has: Check the company's balance sheet. Generally speaking, the share price of a company with more debt is likely to be more volatile because more of the company's income has to go to interest and debt payments. Compare a company to its peers to see if it's borrowing an unusual amount of money for its industry and size.

o Dividend Payment: A dividend, a cash payout to stock investors, isn't just a source of regular income; it's a sign of a company in good financial health. If a company pays a dividend, an investor must look at the history of their payments. Are they increasing dividend or rather decreasing dividend payments?

What not to do when buying a stock:

- Don't buy on price alone: Don't assume a stock is a reduced just because its price has dipped by 10%. Make sure you understand why and how that price is going to recover. Thus an investor must have enough information about the company which gives assurance that future performance will be better than the current performance.
- Don't rely too much on analyst recommendations: Analysts' reports can offer some great information on the health of a business, but beware of the fact that they may tend to be biased for 'buy' ratings. But because of that bias, a sell rating, especially a new sell rating, from an analyst can be a red flag. Keep an eye out for such calls.
- Don't be surprised by volatility: An individual stock is always going to be more volatile than a diversified mutual fund. An investor must get some perspective on how widely prices can swing within a year for the prospective company being considered for investment.
- Don't forget to sell: You should always have a plan for how you approach buying stocks, but it's also important to know when to sell. Have a set of criteria that will tell you it's time to sell, example if the company cuts its dividend; if the price rises or falls to a certain point; if an analyst downgrades the stock, etc. Having a plan to sell will help you avoid selling out of panic over a short-term move in the market. A plan for selling can also help you take your gains.

Types of Stocks

There are two main types of stocks, common stock and preferred stock.

Common Stock

Common shares represent ownership in a company and a claim (dividends) on a portion of profits. Investors get one vote per share to elect the board members, who oversee the major decisions made by management. When people talk about stocks they are usually referring to this type. In fact, the majority of stock is issued in this form.

Over the long term, common stock, by means of capital growth, yields higher returns than almost every other investment. This higher return comes at a cost since common stocks entail the most risk. If a company goes bankrupt and liquidates, the common shareholders will not receive money until the creditors, bondholders and preferred shareholders are paid.

Preferred Stock

Preferred stock represents some degree of ownership in a company but usually doesn't come with the same voting rights. (This may vary depending on the company.) With preferred shares, investors are usually guaranteed a fixed dividend. This is different from common stock, which has variable dividends that are never guaranteed. Another advantage of preferred stock is that in the event of liquidation, preferred shareholders are paid off before the common shareholder (but still after debt holders). Preferred stock may also be callable, meaning that the company has the option to purchase the shares from shareholders at any time for any reason (usually for a premium).

Some people consider preferred stock to be more like debt than equity. A good way to think of these kinds of shares is to see them as being in between bonds and common shares.

Different Classes of Stock

Common and preferred stocks are the two main forms of stock; however, it's also possible for companies to customize different classes of stock in any way they prefer. The most common reason for this is where the company wants to keep the voting power to a certain group of people. Here, different classes of shares are given different voting rights. For example, one class of shares would be held by a select group who are given ten votes per share while a second class would be issued to the majority of investors who are given one vote per share.

When there is more than one class of stock, the classes are traditionally designated as Class A and Class B; however it is rare to find these classes of stock in Ghana.

[*Business & Financial Times*]

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Efficiency and Mutuality: The
client is our boss, quality is
our work and value for money
is our goal**

GT Legal is a licensed law firm incorporated under the laws of Ghana. Our Firm's objective is to provide the best of services to meet the needs of our clients in a constantly evolving world. We do this by putting our core values into action, rooting our business decisions in legal understanding and basing our targets on what is needed to solve each client's problem; rather than depending exclusively on what we can accomplish in the short-term or in the immediate future. As a fully integrated law firm based in Accra, Ghana, we take pride in our firm's capability and the approachable and team-oriented manner in which we work.

We act and advise across the broad spectrum of corporate work including public takeovers, private mergers and acquisitions, complex joint ventures, disposals and corporate restructurings, as well as general corporate, commercial, antitrust and corporate governance issues.

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CORPORATE IMMIGRATION MANUAL— BY PAA KWESI HAGAN & GT LEGAL



Immigration & Legal Services in Ghana

2014 Edition

We are delighted to launch the Corporate Immigration Manual authored by Paa Kwesi Hagan, Managing Partner of Globetrotters Legal. You can find a copy to read on our website (www.globetrotterslegal.com) >> **News** >> **Publication tab**. Corporate immigration has become more important than ever considering that Ghana is moving into a middle income status. The Manual seeks to provide overview of the regulatory regime governing corporate immigration in Ghana, and guidance to current practice.

About the Author:

Mr Paa Kwesi Hagan is a solicitor, immigration and corporate expert, and head of Globetrotters Legal who specialises in providing immigration solutions for global corporations operating in Ghana. Paa Kwesi has a wealth of experience in advising clients on Ghanaian

immigration and compliance matters and also in liaising with regulatory bodies in Ghana. He has advised several high-net-worth companies and multinationals on immigration, compliance and corporate issues.

He has also performed immigration audits for key companies in Ghana. In addition, he has represented clients at immigration hearings before regulatory bodies and continually engages positively with government institutions to influence immigration policy.

Paa Kwesi has been recognised in Who's Who Legal: Ghana 2014 as one of the leading experts in the field of labour and employment law. That apart,

he has also been acknowledged in The International Who's Who of Corporate Immigration Lawyers 2014 as a leading expert in corporate immigration globally and the foremost expert in corporate immigration in Ghana. He has also authored the corporate immigration review chapter on Ghana, being his contribution to the 'The Corporate Immigration Review 4th Edition' by the Law Business Research.

Paa Kwesi is a member of the Ghana Bar Association and is admitted as a barrister and solicitor of the Supreme Court of Ghana. He was educated at the Faculty of Law of the University of Ghana. He is also a member of the International Bar Association (IBA) and an International Associate of the American Immigration Lawyers Association (AILA).



Mr. Paa Kwesi Hagan