



ORARO & COMPANY
ADVOCATES

Oraro & Company Advocates' Capital Markets



Introduction to Oraro & Company Advocates

Oraro & Company Advocates is a full-service market-leading African law firm established in 1977 with a strong focus on dispute resolution and corporate & commercial law. With a dedicated team of 10 partners, 16 associates and 39 support staff, the firm has been consistently ranked by leading legal directories such as Chambers Global, IFLR 1000 and Legal 500 as a top-tier firm in Kenya.

We provide specialist legal services both locally and regionally in **Arbitration, Asset Tracing & Recoveries, Banking & Finance, Capital Markets, Corporate & Commercial, Conveyancing & Real Estate, Dispute Resolution, Employment & Labour, FinTech, Infrastructure, Projects and PPP, Private Client, Restructuring & Insolvency** and **Tax**. Over the years, we have represented both local and foreign clients, governments, regulators, and not-for-profit organisations from target industry sectors including retail, construction, education, energy, financial services, manufacturing & industries and the public sector.

We provide both local and cross-jurisdictional legal services, either directly or through the extensive relationships that we have established with leading firms across the globe, which enable us to offer cross-jurisdictional legal advice in a seamless manner while maintaining the highest professional standards.

Oraro & Company Advocates prides itself in its **deeply rooted client relationships** by providing quality legal services through its **partner-led approach, drawing from local knowledge and global perspectives**.

"they do not compromise on the quality of legal representation they offer, no matter the importance or value of a matter."

Chambers Global 2021.

Our Capital Markets Expertise

Over the years, we have established a reputation as a market leader in Capital Markets transactions in the country, representing a range of listed companies in Kenya. We have been instrumental in the development of the legal and regulatory framework for Kenya's Capital Markets Authority (**CMA**) as well as advising the Nairobi Securities Exchange (**NSE**) technical committee.

The practice has years of experience in advising on a broad spectrum of capital markets products and incorporates specialist expertise in debt and equity capital markets. The practice area is highly regarded for offering clients commercially insightful advice, technical expertise and complete understanding of both sides of a transaction. Our advice also reflects a broader view of the regulatory issues, markets and business environment in which our clients operate. Moreover, working closely with our Dispute Resolution practice area, the capital markets team act and represent clients in contentious matters, tackling complex issues and deriving the satisfaction that comes from finding practical and efficient solutions.

Led by our Founding Partner George Oraro SC, our team has particular industry expertise that enables us to enhance our clients' abilities to execute their business goals effectively. George has served as a member of the Nairobi Securities Exchange's Technical Committee and the Kenyan CMA's Legal Panel, Disclosure and Standards' Committee. Previously, he was a board member at the CMA for 6 years and was involved in shaping the legal and regulatory framework for the Kenya Capital Markets from its formative phase. Additionally, our firm has overtime, established strong relationship with the market authorities such as the CMA and NSE.

"...all-round superior legal firm that can cover a client in all possible respects."

Chambers Global 2020

Our Key competences

Our Capital Markets advice covers:

- Equity & debt capital markets transactions
- Structured products and securitisation
- Regulatory & compliance
- IPOs and public offers
- Islamic capital markets (*sukuk*)
- Project financing
- Due diligence
- Rights issues

“Highly adept in debt restructuring and insolvency, as well as project and asset finance. Notably skilled in the corporate restructuring of failing banks, with further activity in debt capital markets and a wide range of lending mandates...”

Chambers Global 2019

Our Market Recognition



Our Experience

Some of our recent capital markets work highlights include:

- Advising a Kenyan government-owned development finance institution and the Government of Kenya on the amendment of the Memorandum and Articles of Association and application to both Capital Markets Authority and Nairobi Securities Exchange for increase of Capital and Rights Issue. Our roles included legal advisors to the different agents of the offer for sale, preparation of different transaction documents including the technical management agreement, reviewing the legal issues affecting the institution's Information Memorandum, preparation of the necessary company forms at the Companies Registry and amendment of the company's Memorandum and Articles of Association.
- Legal advisor to one of the largest commercial banks in Kenya **rights issue** in 2004 and 2010. Tasks included participating in the preparation of a confidentiality agreement and information memorandum together with the other technical advisors, conducting legal due diligence, providing a legal opinion, obtaining approvals on behalf of the bank from the Capital Markets Authority, Nairobi Securities Exchange, Central Bank of Kenya, and the Government of Kenya and reviewing all the transaction documents to ensure that they complied with Kenyan law.
- Advising on three successful and heavily subscribed **rights issues for a tier 1 bank** (2006, 2007 and 2012). Our responsibilities in this transaction included conducting legal due diligence on the Bank, drafting confidentiality and agency agreements, preparing a legal opinion for inclusion in the information memorandum, ensuring legal compliance in the information memorandum and transaction, assisted in negotiations with various consultants, drafting the respective contracts for the different advisors and assisting the client obtain approval from the regulatory authorities Central Bank of Kenya, Capital Markets Authority and Nairobi Securities Exchange.
- Advising a publicly listed commercial bank's **rights Issue** in 2014. Tasks included participating in the preparation of a confidentiality agreement and information memorandum together with the other technical advisors, conducting legal due diligence, providing a legal opinion to be included in the information memorandum, obtaining approvals on behalf of the bank from the Capital Markets Authority, Nairobi Securities Exchange, Central Bank of Kenya and reviewing all the transaction documents to ensure that their compliance with the laws of Kenya.
- Advised **an insurance and investment group** in a successful private placement of 11,000,000 Class "A" Shares and 9,000,000 Class "B" Shares with a par value of KES 20 each of the group at the price of KES 22.50.

- Advising an East African Government in an **Initial Public Offering of shares** in Kenya's largest electricity generating company. Conducting a due diligence exercise covering legal, environmental and complex land issues as part of the broader transaction, where we advised (as part of a multi-disciplinary team consisting of among others, finance auditors) the Government and Kenya's largest electricity generating company in the sale of thirty percent (30%) of its stock through an IPO at the Nairobi Securities Exchange.
- Acted for East Africa's leading investment company where together with a wholesale distributor of non-durable goods, we obtained approval to acquire all the listed shares in its subsidiary. We drafted and negotiated a settlement Agreement of the two companies and by way of a consent order of the Capital Markets Tribunal, we conducted extensive due diligence, negotiated and obtained approval from the Capital Markets Authority and obtained shareholder approval.
- Sale of part of an East African's Government shares of the **Issued Share Capital** in one of Kenya's largest commercial banks. We advised on the requirements of the CMA Act and the Nairobi Securities Exchange regarding the sale of listed shares; we drafted the Offer for Sale documents and attended meetings with the clients and other consultants, advised KCB on issues relating to lending money to customers to enable them to purchase shares and advised on the issue of underwriting of the offer for sale.
- Advising one of Kenya's largest commercial banks and the Government of Kenya on the initial flotation of the bank's shares at Nairobi Securities Exchange and subsequent secondary listing. Providing legal input on the Information Memorandum, preparing and reviewing all appropriate legal documentation for listing on the Nairobi Securities Exchange, reviewing and reconstructing constituent instruments, conducting due diligence, drafting agreements and ensuring smooth legal conduct of the flotation exercise.
- Representing an independent government financial regulatory agency in a matter that involves a Stockbroker which is under the statutory management of the Capital Markets Authority in a claim for the recovery of monies converted by the Managing Director. The recovered funds are intended to be used to compensate investors.
- Advised the Nairobi Securities Exchange and the Capital Markets Authority in **the demutualization of the Nairobi Securities Exchange**, as well as compliance with various statutory regimes governing their respective operations.
- Advising a network of Dutch organisations in the water sector and an incubator of innovative business concepts in the establishment of a **capital market structured water pool facility** and the subsequent incorporation of an SPV for the achievement of the same. Provision of various legal opinions on the legal requirements of the Capital Markets

Authority and the Companies Act, review of various policies and contracts for the operationalisation of the SPV and various contracts.

- Drafted the documentation for the quality provider of clearing and settlement services in the Kenya Capital Markets and that of the Capital Markets Challenge Fund.
- Advised a commercial bank in Kenya on legal issues relating to the **transfer from the Alternative Investment Market Segment** to the Main Investment Market Segment, on the Nairobi Securities Exchange.
- Acting for an independent government financial regulatory agency in relation to the **proposed takeover** of a manufacturing and investment company in Kenya by a gas company. The dispute related to non-compliance with the threshold requirements and interpretation of the takeover procedures under the Capital Markets (Take-overs and Mergers) Regulations, 2002.
- Advising a reputable international law firm on the **take-over procedures** under the Capital Markets (Take-overs and Mergers) Regulations, 2002.
- Represented East Africa's leading investment company in various **litigation proceedings relating to a multibillion takeover offer/bid** of a company that operates sisal plantations in Kenya and Tanzania at the Court of Appeal, High Court and the Capital Markets Tribunal.
- Advised on a **joint venture agreement** between various stakeholders in an asset management company that is to be licensed by the Capital Markets Authority. Our role included incorporating the asset management company, preparing the joint venture agreement between the various investors and various declarations of trust. The transaction involved the setting up of the asset management company. We were required to prepare a highly confidential joint venture agreement between the various stakeholders who would not hold the shares in the asset management company in their own names but through nominee shareholders who had to execute declarations of trust in favour of some of the investors.
- Advised an East African Government (through the office of the Attorney General) on the **proposed capital restructuring** of the national airline in which the Government is a significant shareholder, including the legal implications of relinquishing its security. The matter value is USD 2.3 billion. This was the largest and most complex restructuring which aimed at repositioning the national carrier for long-term growth and business sustainability.

Our Capital Markets Lawyer

George Oraro SC | Founding Partner



George (goraro@oraro.co.ke) is the Founding Partner at Oraro & Company Advocates. With over 44 years of experience, he is held in high esteem for his arbitration, mediation and litigation expertise in Kenya. He specialises in administrative and judicial law, banking & commercial litigation, corporate & commercial law, employment and labour disputes, international trade and tax disputes.

He has practised in the International Criminal Court, LCIA, International Chamber of Commerce, the Supreme Court of Kenya, Court of Appeal, the High Court, the Employment & Labour Court,

and various Tribunals.

In 2012, George was conferred with the rank of Senior Counsel for his exemplary service to the legal profession. He was also appointed to serve as a Commissioner of Assize to assist in expediting and determining criminal and civil matters. Similarly, in the Chambers Global 2021 Guide, he retained the prestigious **‘Star Individual’** accolade in Dispute Resolution which is accorded to lawyers with exceptional recommendations in their field. George remains the only lawyer ranked in this category in Kenya. He is also ranked a Band 1 lawyer in Dispute Resolution: Arbitrators, receiving a plethora of praise from the Kenyan legal community for being *“one of the best lawyers Kenya has”* and *“without a doubt among the leading individuals in litigation and arbitration.”*

In addition, the Legal 500 listed George among Africa’s leading arbitration practitioners in its Arbitration Powerlist: Africa 2021.

Aside from his legal practice, George has served as a board member for the Capital Markets Authority in which he was instrumental in the development of the legal and regulatory framework for the Capital Markets in Kenya. He was also a member of the Nairobi Securities Exchange Technical committee. In 2015, George became the first Honorary Consul for the Republic of Lithuania.

Pamella Ager | Managing Partner



Pamella (pamella@oraro.co.ke) is the Managing Partner at Oraro & Company Advocates and heads the Banking & Finance and Conveyancing & Real Estate practice groups. With over 19 years of experience, she has advised local and international clients in banking and finance, construction, capital markets, conveyancing and real estate, M&A, and regulatory work but is well regarded for her capital markets and conveyancing expertise.

Pamella has been consistently highly ranked by leading legal directories such as Chambers Global, IFLR1000 and Legal 500 as one of the leading lawyers in Kenya. In 2020, IFLR1000 ranked Pamella as highly regarded for her Banking and M&A expertise. The directory commended her in 2018 saying *"[She has] superb quality, easily reachable with great communication skills and has the ability to get along well with all clients."*

Pamella has a Master of Laws (LLM) from Auckland University, New Zealand, an LLB from the University of Waikato, New Zealand, and a Post-graduate Diploma in Law from the Kenya School of Law. Aside from her legal practice, Pamella lectures at the University of Nairobi School of Law. She also serves in her capacity as a Director on several boards.

Jacob Ochieng | Partner



Jacob (jacob@oraro.co.ke) is a Partner at Oraro & Company Advocates in the corporate & commercial practice group. With over 11 years' experience, he has advised local, international corporates in on commercial contracts, corporate advisory, corporate restructuring mergers & acquisition, privatisations and infrastructure projects.

Jacob was recently part of a team that advised in a complex debt to equity restructuring of a national airline that aimed to reposition the National carrier for long-term growth and business sustainability. He also acted for a leading commercial bank in the financing of the first road construction projects under the Road Annuity Program of the Ngong-Kiserian-Isinya and Kajiado-Imaroro Roads.

Chambers Global ranked Jacob, in its 2021 Guide, as one of the leading lawyers in Corporate/M&A in Kenya. Chambers noted that he is well regarded in the space by peers, who comment, *"[Jacob is] thorough in his thinking and extremely detailed in his output"*.

Jacob holds a Bachelor of Laws (LLB) from the University of Nairobi and a post-graduate diploma in Law from the Kenya School of Law.



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