



Camden Asset Recovery Inter-Agency Network

The History, Statement of Intent, Membership
and Functioning of CARIN.

Manual



CARIN MANUAL 5th Edition

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 **EUROPOL**

It is my pleasure to present the Fifth edition of the CARIN Manual. CARIN makes continued progress in supporting and strengthening coordination and cooperation between the investigative and prosecutorial agencies which comprise its membership. As Her Majesty's Attorney General for Guernsey and co-host, together with the Head of Guernsey Law Enforcement, of the CARIN Presidency 2015, I am particularly proud to present this Manual, which reflects the continued development and progress of the work undertaken by CARIN since its inception. Through its commitment to best practice, CARIN has remained at the forefront of efforts to deal with new challenges facing Law Enforcement and Prosecution Services in the identification and confiscation of illegally held assets and proceeds of crime.

This manual outlines the current membership guidelines, network structure and functioning of CARIN.

There are now 5 CARIN style networks around the world. It is my hope that the work undertaken during this Presidency will also lead to the creation of a Caribbean Network in 2016.

The strategic and operational activities within these networks using the principles and approach originally adopted by CARIN, has enhanced the reach and effectiveness of CARIN and the individual regional networks. The focus on coordination and the exchange of open source information in a timely and informal manner has significantly facilitated the practice of asset recovery within jurisdictions themselves and in multi-jurisdictional cases.

Whilst CARIN is primarily an operational network with a focus on the day to day work of finding and confiscating assets it has, together with the other 5 Regional networks, grown to become the cornerstone of many global and regional policies, standards and norms.

The practical work of CARIN also operates to foster trust, enabling us to learn from each other to break down the legal, practical, procedural and cultural barriers which criminals and criminal enterprises seek to exploit.

This has been achieved through the shared experiences acquired by practitioners in all the networks working daily to deprive criminals of their illicit profits.

This has been achieved through the shared experiences acquired by practitioners in all the networks working daily to deprive criminals of their illicit profits.

I wish to express my appreciation to EUROPOL which continues to support the work of CARIN by offering to host its Secretariat within the EUROPOL Criminal Assets Bureau. This has allowed CARIN to maintain a dedicated contact point and to retain the expertise in organising the Annual General Meetings together with the provision of assistance in the running of its Steering Group.

I hope that this Fifth Edition of the CARIN Manual will provide valuable assistance to its members, together with individuals and agencies in other jurisdictions, as a source of high quality and practical information. In addition, the manual will facilitate further enhancement of the Network as an instrument of cooperation in the face of difficult challenges which continue to lie ahead in this area of Law Enforcement.

Howard Roberts OBE QC

St James Chambers, St Peter Port, Guernsey

D/Chief Superintendent, Eugene Corcoran

Chief Bureau Officer, Criminal Assets Bureau, Dublin, Ireland

In October 2002 a conference was held in Dublin co-hosted by the Criminal Assets Bureau Ireland and Europol. The conference was attended by representatives of all Member States of the European Union and some applicant states together with Europol and Eurojust. Participants were drawn from law enforcement agencies and judicial authorities within Member States. Workshops were held between practitioners and the objective was to present recommendations dealing with the subject of identifying, tracing and seizing the profits of crime.

One of the recommendations arising in the workshops was to look at the establishment of an informal network of contacts and a cooperative group in the area of criminal asset identification and recovery.

The name agreed for the group was the Camden Assets Recovery Inter-Agency Network (the Camden Court Hotel Dublin being the original location of the workshops where the initiative started).

The aim of the Camden Assets Recovery Inter-Agency Network is to enhance the effectiveness of efforts in depriving criminals of their illicit profits. This is now a major law enforcement tool in targeting organised crime gangs with particular reference to financial deprivation. There is added value in that membership of the group will improve cross-border and inter-agency cooperation as well as information exchange, within and outside the European Union.

The Official start of CARIN took place during the CARIN Establishment Congress in The Hague, 22-23 September 2004. The aim of this congress was the establishment of an informal network of practitioners and experts with the intention of improving mutual knowledge on methodologies and techniques in the area of cross-border identification, freezing, seizure and confiscation of the proceeds from crime. It is expected that this network will improve international co-operation amongst law enforcement and judicial agencies, which in turn will provide a more effective service.

The following states and jurisdictions attended the launch congress

Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, UK (including the UK Crown Dependencies of Isle of Man, Guernsey, Jersey and Gibraltar), USA.

2.1. Introduction

CARIN is an informal network of contacts and a cooperative group in all aspects of tackling the proceeds of crime.

2.2. Aim

The aim of CARIN is to increase the effectiveness of members' efforts, on a multi-agency basis, in depriving criminals of their illicit profits.

2.3. Key Objectives

In seeking to meet its aim CARIN will:

- establish a network of contact points;
- focus on the proceeds of all crimes, within the scope of international obligations;
- establish itself as a centre of expertise on all aspects of tackling the proceeds of crime;
- promote the exchange of information and good practice;
- undertake to make recommendations to bodies such as the European Commission and the Council of the European Union, relating to all aspects of tackling the proceeds of crime;
- act as an advisory group to other appropriate authorities;
- facilitate, where possible, training in all aspects of tackling the proceeds of crime;
- emphasise the importance of cooperation with the private sector in achieving its aim;
- encourage members to establish national asset recovery offices.

3.1. Membership

3.1.1. Member Status

Member Status is open to EU Member States and to states and jurisdictions who were invited to the CARIN launch congress in 2004. Each Member may nominate two representatives, one from a Law Enforcement Agency and one from a Judicial Authority to be their CARIN contacts. Assets Recovery Offices may represent law enforcement or the judiciary.

3.1.2. Observer Status

Observer status will be available to states and jurisdictions that do not qualify for Member status, and non-private bodies concerned with the identification and confiscation of the proceeds from crime. Each Observer member may nominate two representatives to be the network contacts. Country or jurisdiction Observers may nominate one from a Law Enforcement Agency and one from a Judicial Authority to be their CARIN contacts. Assets Recovery Offices may represent law enforcement or the judiciary. Observer status does not entitle the member to a vote at any plenary meeting or to membership of the Steering Group.

3.1.3. Associate Status

Associate Status will be available to bodies that, although not involved with the operational exchange of law enforcement and judicial information, demonstrate a complementary strategic role in the identification and confiscation of the proceeds from crime. Each Associate member may nominate two representatives to be the network contacts. Associate Status does not entitle the member to a vote at any plenary meeting or to membership of the Steering Group.

3.2. Membership Criteria

3.2.1. Criteria to be fulfilled by Members and Observers:

- a) they should provide the network with clearly identified national contact point(s).
The number of contact points should be the minimum necessary for effective operation of the network. It is recommended that no more than two national contact points are nominated. One contact point should be the central office involved in asset tracing and forfeiture/confiscation. If not the central asset recovery office, this point of contact must have direct access to practitioners in this area;
- b) they will supply an outline and summary of their legislation and practical procedural guidelines relating to asset forfeiture/confiscation, civil and criminal, for information sharing with other Members and, Observers and for inclusion on the CARIN website;
- c) to undertake to meet the objectives and functions as set out in the Statement of Intent.

3.2.2. Criteria to be fulfilled by Associates:

- a) they should provide the network with clearly identified contact point(s). The number of contact points should be the minimum necessary for effective operation of the network. It is recommended that no more than two contact points are nominated;
- b) they should provide an outline of their practical procedural guidelines relating to asset forfeiture/confiscation, for information sharing with other Members, Observers and Associates;
- c) they will provide details of why and how they add strategic value to the network;
- d) to undertake to meet the objectives and functions, as set out in the statement of intent.

3.3. What does Commitment to CARIN mean?

3.3.1. For Members and Observers:

- a) as an informal practitioners network, they may facilitate the exchange of information with other CARIN Member and Observer status contacts, within available national, European and international legal frameworks;
- b) they should advise on and facilitate mutual legal assistance. Mutual legal assistance requests must be made through the appropriate formal legal channels;
- c) they should share good practice, knowledge and experiences, on their own initiative, and should provide feedback to assist in research and development;
- d) they should raise awareness with appropriate law enforcement and judicial authorities on the importance of developing all aspects of tackling the proceeds of crime and the dissemination of information;
- e) they will fund their own costs and expenses, other than when external funding is available.

3.3.2. For Associates:

- a) they may exchange complimentary strategic information on the identification and confiscation of the proceeds from crime with other CARIN Members, Observers and Associates, as far as national or organisational legislation and policy will allow, on an informal co-operative basis;
- b) they should share good practices, knowledge and experiences, on their own initiative and should provide feedback to assist in research and development;
- c) they will fund their own costs and expenses, other than when external funding is available.

3.4. Functioning of the CARIN Network

3.4.1. General

- a) CARIN's working language will be English.
- b) CARIN will hold an Annual General Meeting (AGM), of its Members and Observers, to be hosted by the nominated Presidency. Associate members may be invited to the AGM by the hosts. The Presidency will be both President of the Steering Group and the Plenary, for their one year term, running from 1 January.
- c) Each Member shall have one vote in plenary. Decisions will be made on the basis of simple majority.
- d) There will be a website designated for CARIN hosted by Europol and administered by the Secretariat. The details can be found in the Annex attached.
- e) The details of all CARIN Associate members will be entered onto the CARIN contacts list, which is circulated to Members and Observers. CARIN Associates can interact with Members and Observers via the Secretariat.

3.4.2. Steering Group

- a) CARIN will have a Steering Group comprising of up to nine Members from which one Member will be elected President. The Steering Group period will run from 1 January each year and conclude on 31 December to allow for planning of the AGM.
- b) Membership of the Steering Group will rotate periodically with up to three Members offering to stand down each year to enable other Members to join the Steering Group. If the number of candidates exceeds the number of vacancies there will be a vote of all Members.
- c) The Steering Group will oversee the administration of the network.
- d) Following nominations from a Member or Observer, the Steering Group will receive applications for Member, Observer and Associate status and will decide if the application meets the eligibility criteria.
- e) Europol and Eurojust will have permanent Observer status in the Steering Group.
- f) The Steering Group may establish working groups to examine and report on legal and practical issues.
- g) The Steering Group will assist in the preparation of the annual conference agenda and will identify areas for consideration at plenary.
- h) The Steering Group will promote CARIN and the CARIN concept in meetings, conferences and other events.
- i) The Steering Group will be responsible for revising the CARIN Manual following suggestions from and consultation with CARIN Members.

¹ The CARIN Secretariat can be contacted on CARIN@europol.europa.eu or +31 703 53 1720

3.4.3. The Presidency

- a) The Steering Group will elect the Presidency.
- b) Each Presidency will be elected at least two years in advance.
- c) A Steering Group representative will hold the Presidency for a period of one year.
- d) The Presidency period will commence on 1 January each year and conclude on 31 December to allow for planning of the AGM.
- e) The Presidency will oversee the external communication on behalf of the Network.
- f) The Presidency and Steering Group in cooperation with the Secretariat will oversee the preparation of a summary on the activities of CARIN for the year.

3.4.4. The Secretariat

- a) Europol will provide a permanent Secretariat function¹. The Secretariat will be located on the premises of Europol and the staff of the Secretariat will be part of the Europol staff. The Secretariat may draw on the administrative resources of Europol as is necessary for the performance of its tasks.
- b) As the administrating unit of CARIN, the Secretariat will provide the necessary professional experience, history and continuity for the network to function effectively.
- c) The Secretariat will provide effective administrative support to the CARIN Members, Observers and Associates, thus allowing them to undertake to meet the objectives and functions as set out in the Statement of Intent.
- d) The Secretariat will support and facilitate the Presidency and the Steering Group and manage the CARIN web site.
- e) The Secretariat will maintain the CARIN Contacts list.
- f) The Secretariat will draft documents related to CARIN activities, and prepare action plans to implement CARIN outcomes and recommendations.
- g) The Secretariat will keep an up to date record of projects and decisions taken.
- h) The Secretariat will provide support to CARIN meeting hosts in relation to the organisation of Steering Group, Plenary and sub-working group meetings.
- i) The Secretariat will establish and maintain relations with other bodies and structures in the field of asset recovery.
- j) The Secretariat will promote CARIN, and the CARIN concept, in meetings, conferences and other events.
- k) The Secretariat will facilitate initial contact between CARIN Members, Observers and Associates and other CARIN style networks such as ARINSA (Asset Recovery Inter-Agency Network Southern Africa) and RRAG (Red de Recuperacion de Activos de GAFISUD – Latin American Asset Recovery Network). Operational data will be exchanged between CARIN Members and Observers, and other CARIN Style networks within the international legal frameworks available.

Introduction

The Europol Financial Crime Information Centre (FCIC) is a closed user group web site, administered by Europol and available to all investigators and judicial authorities involved in combating financial crime. Access is available in line with the FCIC Business Procedures (available from Europol Financial Crime Unit) by means of a user name and password issued by Europol.

Contents and responsibilities

1. No personal information, which would be subject to relevant data protection regulations, can be placed onto the web site.
2. This web site will contain an open CARIN area, available to all FCIC users, the intent of which is to raise awareness of all FCIC users on asset forfeiture issues.
3. Within this area there will be a closed folder for exclusive use by CARIN Members and Observers only. This area will be referred to as the CARIN Membership Area.
4. The main website language will be English, although if documents are available only in another language they may also be included. In this case, a summary in English needs to be provided.
5. There are discussion/message boards in both the CARIN Membership Area and the main Home Page of the website.
6. CARIN members will be responsible for the provision of relevant material for inclusion in the CARIN area of the FCIC web site. This information should be submitted to the FCIC portal manager/editor at Europol, in electronic form to carin@europol.europa.eu. The portal manager/editor will confer with the CARIN Steering Group regarding the content for inclusion onto the web site if necessary.
7. The CARIN central contact points should relay information of interest from the web site to the relevant law enforcement or judicial agency or organisation within their own country or region.
8. The central contact point should raise awareness of the existence of the FCIC CARIN web site by ensuring it is mentioned at national financial crime fora and on national law enforcement and judicial web sites.
9. CARIN national contact point responsibilities commence when individuals become members of CARIN and have received their web site account details, available on request by email from Europol².

² fcic@europol.europa.eu

The Open CARIN Folder

The open CARIN folder will be used as a means of displaying information in relation to criminal asset issues. This section of the website will contain the following;

10. A list of asset recovery vocabulary applicable in each country should be stored on the open CARIN folder together with translation into a selected number of languages.
11. A 'Member Country' page containing concise information relating to criminal asset issues. This will include reference to open sources of information available in each country. It will also include a synopsis of procedures, legislation and good practice and other relevant information supplied by each member. This should be short and informative.
12. Information on where legislation can be viewed (for example web site links).
13. Case studies with learning points, both positive and negative.
14. An events diary on matters relating to general asset recovery issues, for example CARIN Steering Group meetings or EU Commission meetings.
15. A CARIN News section, containing information on recent cases, important developments in relation to asset recovery worldwide and notification of new documents available in the CARIN area of the web site.
16. A frequently asked questions area (FAQ).
17. A help desk function is available for direct contact with the CARIN Secretariat and the portal manager/editor for questions, advice or assistance on any issue relating to asset recovery or the web site. This is accessible by use of the web site email function.
18. Links to university studies and their results.
19. Information resulting from the CARIN Steering Group meetings.

The CARIN Membership Area (CARIN Closed Folder)

The CARIN Membership Area should contain the following:

20. A contact list of all CARIN members.
21. CARIN Steering Group working or draft documents.
22. The central contact point should relay any information they deem relevant to other national contact points, via the web site message board or help desk function.

Countries, States, Jurisdictions, Principalities and Organisations

	Country, Jurisdiction or Organisation	Membership Status
1	Albania	Observer Status
2	ARIN-AP (Asset Recovery Inter-agency Network Asia Pacific)	Observer Status
3	ARIN-SA (Asset Recovery Inter-agency Network Southern Africa)	Observer Status
4	Australia	Observer Status
5	Austria	Member Status
6	Belgium	Member Status
7	Bosnia and Herzegovina	Observer Status
8	Bulgaria	Member Status
9	Canada	Observer Status
10	Croatia	Observer Status
11	Cyprus	Member Status
12	Czech Republic	Member Status
13	Denmark	Member Status
14	Egmont Group	Observer Status
15	Estonia	Member Status
16	Eurojust	Observer Status (permanent observer in Steering Group)
17	Europol	Secretariat
18	Finland	Member Status
19	France	Member Status
20	Georgia	Observer Status
21	Germany	Member Status
22	Gibraltar	Member Status
23	Greece	Member Status
24	Guernsey	Member Status
25	Hungary	Member Status
26	Iceland	Observer Status
27	International Criminal Court	Observer Status
28	Indonesia	Observer Status
29	International Monetary Fund	Associate Status
30	Interpol	Observer Status
31	Ireland	Member Status
32	Isle Of Man	Member Status
33	Israel	Observer Status

	Country, Jurisdiction or Organisation	Membership Status
34	Italy	Member Status
35	Jersey	Member Status
36	Kosovo	Observer Status
37	Latvia	Member Status
38	Liechtenstein	Member Status
39	Lithuania	Member Status
40	Luxembourg	Member Status
41	Macedonia	Observer Status
42	Malta	Member Status
43	Moldova	Observer Status
44	Monaco	Observer Status
45	Montenegro	Observer Status
46	Netherlands	Member Status
47	Norway	Member Status
48	OLAF	Observer Status
49	Poland	Member Status
50	Portugal	Member Status
51	RRAG (Red de Recuperación de Activos de GAFISUD)	Observer Status
52	Romania	Member Status
53	Russia	Observer Status
54	Serbia	Observer Status
55	Slovak Republic	Member Status
56	Slovenia	Member Status
57	South Africa	Observer Status
58	Spain	Member Status
59	Sweden	Member Status
60	Switzerland	Member Status
61	Turkey	Member Status
62	United Kingdom	Member Status
63	Ukraine	Observer Status
64	United Nations Office of Drugs and Crime	Observer Status
65	United States of America	Member Status
66	World Bank	Associate Status

2003 / 2004	Belgium & The Netherlands
2005	Ireland
2006	Austria
2007	United Kingdom
2008	France
2009	United States of America
2010	Czech Republic
2011	Bulgaria
2012	Hungary
2013	Ireland
2014	Spain
2015	Guernsey
2016	Netherlands
2017	Sweden

2003 / 2004	Austria, Belgium, Germany, Ireland, The Netherlands, United Kingdom
2005	Austria, Belgium, Germany, Ireland, The Netherlands, United Kingdom
2006	Austria, Belgium, Czech Republic, France, Germany, Ireland, Jersey, The Netherlands, United Kingdom
2007	Austria, Belgium, Czech Republic, France, Germany, Jersey, The Netherlands, United Kingdom, United States of America
2008	Belgium, Bulgaria, Czech Republic, France, Germany, Jersey, The Netherlands, United Kingdom, United States of America
2009	Belgium, Bulgaria, Czech Republic, France, Jersey, The Netherlands, Spain, United Kingdom, United States of America
2010	Belgium, Bulgaria, Czech Republic, France, Hungary, The Netherlands, Spain, United Kingdom, United States of America
2011	Bulgaria, Czech Republic, France, Guernsey, Hungary, Ireland, The Netherlands, Spain, United States of America
2012	Bulgaria, Czech Republic, France, Guernsey, Hungary, Ireland, The Netherlands, Spain, United States of America
2013	Bulgaria, Czech Republic, France, Guernsey, Hungary, Ireland, Spain, Sweden, United States of America
2014	Bulgaria, Czech Republic, Guernsey, Hungary, Ireland, The Netherlands, Spain, Sweden, United States of America
2015	Bulgaria, Czech Republic, Guernsey, Hungary, Ireland, The Netherlands, Spain, Sweden, United States of America
2016	Bulgaria, Guernsey, Hungary, Ireland, The Netherlands, Romania, Spain, Sweden, United Kingdom

Summary Outcomes and Recommendations from the CARIN Annual General Meetings 2005 – 2015³

A comprehensive list of all outcomes and recommendation made by CARIN members is available to law enforcement and judicial authorities only by contacting carin@europol.europa.eu or on the CARIN page of the Financial Crime Information Centre (FCIC) website. This full text shows that, although topics have been repeatedly discussed, they are discussed in progressively greater detail year on year, as knowledge and experience increases.

CARIN Annual Meeting 2005, Ireland

In 2005 CARIN members discussed “Multi-Agency alternative Strategies for Targeting the Proceeds of Criminal Activity: A European Union Perspective”. Members debated issues around cross-border cooperation in practise, international criminal asset forfeiture from a European perspective and the identification of current issues in international criminal asset forfeiture. Recommendations were made in relation to;

- Taxation and Social Welfare action against Criminal Proceeds.
- Restraint and Enforcement Issues from an International Perspective.
- The Management and Disposal of Restrained Assets.

CARIN Annual Meeting 2006, Austria

In 2006 CARIN Members discussed “Investigation Methods and Co-operation of Law Enforcement Agencies within the European Union”. Debates included the benefit of multidisciplinary teams in asset seizure efforts and scientific research into the international barriers to asset recovery cooperation. Recommendations were made in relation to;

- Operational Investigative Techniques and Methods in Identifying Illegal Proceeds.
- Measuring the Effectiveness of Cooperation in the Field of Asset Tracing, Freezing, Seizing and Confiscation.
- Asset Freezing.

CARIN Annual Meeting 2007, United Kingdom

In 2007 CARIN Members discussed the topic of “Building on Existing International Investigative and Legal Best Practice and Future Legislative Measures to Support Asset Recovery”. CARIN members benefited from a panel discussion on the lessons learnt from a major international asset recovery investigation, and sessions on national and regional approaches to asset confiscation and the challenges of

executing freezing orders. Members also discussed a fictitious asset recovery case, concluding a number of outcomes and recommendations from a broad range of topics including, mutual legal assistance, establishing restraint and confiscation databases, social and law enforcement use of confiscated assets, problems encountered when using asset recovery terminology to make international requests, and the topic of non-conviction based confiscation.

CARIN Annual Meeting 2008, France

In 2008 CARIN Members discussed “Promoting the Creation of National Asset Recovery Offices and the Effective Management of Seized and Confiscated Assets”. Discussions were prompted by sessions on the asset management process in a number of CARIN member jurisdictions including Canada, USA and France, the outcomes of the CARIN working group on asset management and establishing an asset recovery office in the European Union. Recommendations were made in relation to;

- The effective management of seized and confiscated assets resulting in an efficient sharing outcome.
- Promoting the creation of national asset recovery offices.

CARIN Annual Meeting 2009, United States of America

In 2009 CARIN Members discussed asset forfeiture and confiscation in terms of “CARIN: An Informal Network and Centre of Excellence – Five Years of International Cooperation and Best Practice”. CARIN members discussed variations on calculating criminal benefit, and learnt from a number of important financial centres and their capacity to support confiscation efforts. The group debated an international case from both a law enforcement and judicial angle. Recommendations and outcomes were concluded on a wide range of aspects including;

- Access to Bank Registers / Databases.
- Temporary Freezing and Seizure Action.
- Enforcement of Freezing, Seizure, Forfeiture and Confiscation Orders.
- Effective information Exchange through a Secure Channel.
- Jurisprudence Manual.
- Mutual Legal Assistance Treaty (MLAT) Drafting.
- International and National Standards and Procedures.
- General CARIN Practice.

³ A full detailed list of all outcomes and recommendation is available to law enforcement and judicial authorities only by contacting carin@europol.europa.eu or on the CARIN page of the FCIC website.

CARIN Annual Meeting 2010, Czech Republic

In 2010 CARIN Members discussed “Alternative Possibilities to Trace and Freeze Assets Prior to Mutual Legal Assistance”. This topic was debated through sessions on non conviction based confiscation, the possibilities of preliminary freezing, and creating national and international manuals for asset recovery. Members also received information on the possibilities for interaction between the police and judicial authorities and national financial intelligence units. Access to banking information was also discussed. Recommendations were made in relation to;

- CARIN Co-operation with Financial Intelligence Units (FIUs).
- Pre MLA Temporary Freezing of assets.
- Asset Tracing.
- Central Register of Financial Information.
- Financial Investigation Training.
- Rights of Victims to Compensation.

CARIN Annual Meeting 2011, Bulgaria

In 2011 CARIN discussed “Targeting Unexplained Wealth”. This topic was debated through sessions on national and local district approaches to non-conviction based confiscation and other possibilities to target unexplained wealth including cash forfeiture and law enforcement stop checks. CARIN members concluded a number of legal and operational outcomes and recommendations based on 5 fictitious cases in relation to;

- Non conviction based confiscation.
- The criminalization of “unexplained wealth” or illicit enrichment.
- Cash seizure by way of civil proceedings.
- Interagency information exchange.
- Domestic training in the investigation of unexplained wealth.
- MLA in relation to international requests to target unexplained wealth.
- Pre-paid cards.
- International co-operation in cases involving the cross-border movement of cash and cash equivalents.

CARIN Annual Meeting 2012, Hungary

In 2012 CARIN discussed “The Current Challenges of Asset Recovery: A Law Enforcement and Judicial Practitioners Perspective”. CARIN reviewed work already undertaken in the areas of asset management and non conviction based confiscation with a view addressing the next steps to be taken for enhancing

these areas. It also examined the use of national asset recovery databases and cooperation with the private sector. CARIN members concluded a number of outcomes and recommendations in relation to;

- Asset tracing.
- Asset Management Offices.
- The Onus of Proof.
- Non Conviction Based Confiscation.
- Activities of the CARIN network.

CARIN Annual Meeting 2013, Ireland

In 2013 CARIN discussed “The Recognition and Implementation of Alternative Strategies in Targeting the Proceeds of Crime”. CARIN members concluded a number of outcomes and recommendations in relation to;

- Identifying, tracing, and confiscating virtual assets.
- Gateways to recovering the proceeds of criminal conduct through taxation.
- Proving the virtual world: Social media, rights and obligations, and evidential issues.
- Value based confiscation: Calculating the financial benefits of crime.

CARIN Annual Meeting 2014, Spain

In 2014 CARIN discussed “The Recognition and Implementation of Alternative Strategies in Targeting the Proceeds of Crime”. CARIN members concluded a number of outcomes and recommendations in relation to;

- Identifying, tracing, and confiscating virtual assets.
- Gateways to recovering the proceeds of criminal conduct through taxation.
- Proving the virtual world: Social media, rights and obligations, and evidential issues.
- Value based confiscation: Calculating the financial benefits of crime.

CARIN Annual Meeting 2015, Guernsey

In 2015 CARIN discussed “The Global Identification of Assets and their Recovery in International Financial Centres”. CARIN members concluded a number of outcomes and recommendations in relation to;

- Progressing asset recovery using Joint Investigation Teams (JITs) and parallel investigations.
- The practical aspects of investigating ‘beneficial ownership’ issues for the purpose of asset identification, freezing, seizure and confiscation.

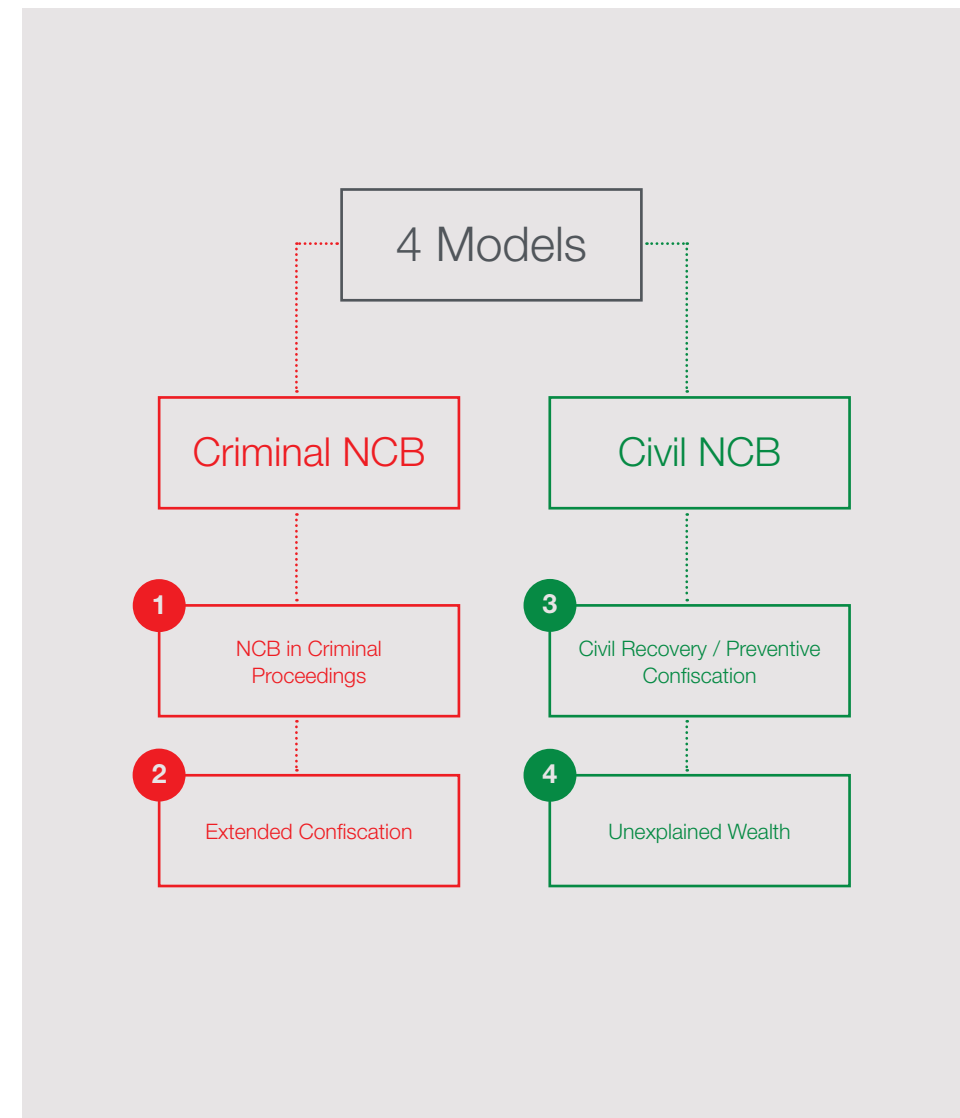
This guide explains four models or ‘typologies’ of non-conviction based (NCB) confiscation or forfeiture, resulting from the same case. The models are based on EU confiscation law. The legislation in some states includes more than one model, or is a cross between the criminal and civil NCB confiscation models. It may also be that although the proceedings are similar, the agencies mandated to act vary from the models described.

Model 1: Confiscation or forfeiture after the defendant has died. This model is linked to criminal proceedings. It applies where confiscation is not possible on the basis of a final conviction. Proceedings have been instituted against an offender but not concluded. The offender cannot be brought before the court or convicted due to his or her death. Other examples of model 1 are when the offender has absconded or the court deems him/her unfit for prosecution due to immunity, age or mental state.

Model 2: ‘Extended confiscation’. This model allows for the confiscation or forfeiture of assets not connected to the crime for which the offender is being prosecuted. The order to confiscate is effectively ‘extended’ beyond the assets related to the prosecution, to other assets the defendant ‘owns’.

Model 3: Civil Confiscation or forfeiture. This model is an in rem (action against the asset not the person) process to confiscate or forfeit assets obtained through unlawful conduct. The confiscation is civil by nature but with an indirect link to a crime or criminal activity.

Model 4: Unexplained Wealth. This model compares the actual property a person has acquired against income declared by that person in order to identify any disparity between the two. It is mostly applied both within civil proceedings but in certain jurisdictions can also be applied in criminal proceedings. Establishing a direct or indirect link to a predicate offence is not necessary.



1

Model 1: Confiscation or forfeiture after the defendant has died

John Brown lives on the boundary of a medium size town and worked as an administrative assistant at a local accountancy firm.

He has been a recreational cocaine user for several years, always buying from the same supplier in a neighbouring town. Around 5 years ago he started to supply his own friends, work colleagues and associates with cocaine from the same supplier, using a cutting agent to increase his profit from deals. As his reputation grew, his clientele expanded, and 2 years ago he stopped working, focusing his attention entirely on his expanding drugs business.

Around the same time, he purchased a piece of land next to his house and has now built a detached house for his brother and family to live in. He drives a BMW X5, as does his wife.

Following a tip-off from a local street dealer, Brown was intercepted by the local police drugs unit, driving his BMW. He had just collected 0.5 kilo of cocaine from his supplier. The drug was in a bag on the passenger seat of the car. Brown was arrested and his house searched. No further drugs were found in the house. However, a small quantity of cutting agent was found, together with a small amount of drug equipment and €15.000 in cash, indicating that he is supplying the drug. There is enough evidence to prosecute John Brown for drug dealing.

The week before John Brown is due to appear in court, he is involved in a fight in prison, he sustains severe head injuries and dies before verdict was issued in court.

It was proved beyond all doubt that the crime was committed and the sum of money was the proceeds of crime.

The prosecutor (a court in a trial) terminated the criminal prosecution against the person. However, the prosecutor continued, in criminal proceedings, to forfeit the drugs and the sum of money as the proceeds of Brown's crime.

The prosecutor proved that the criminal acts happened, i.e. a particular crime was committed by particular persons. The criminal burden of proof was applied to do this (proving beyond reasonable doubt). The court then decided to forfeit the proceeds of Brown's crime, in a criminal proceeding. The drugs were forfeited as an item dangerous to society and the money as direct proceeds of crime.

2

Model 2: 'Extended confiscation'

John Brown lives on the boundary of a medium size town and worked as an administrative assistant at a local accountancy firm.

He has been a recreational cocaine user for several years, always buying from the same supplier in a neighbouring town. Around 5 years ago he started to supply his own friends, work colleagues and associates with cocaine from the same supplier, using a cutting agent to increase his profit from deals. As his reputation grew, his clientele expanded, and 2 years ago he stopped working, focusing his attention entirely on his expanding drugs business.

Around the same time, he purchased a piece of land next to his house and has now built a detached house for his brother and family to live in. He drives a BMW X5, as does his wife.

Following a tip-off from a local street dealer, Brown was intercepted by the local police drugs unit, driving his BMW. He had just collected 0.5 kilo of cocaine from his supplier. The drug was in a bag on the passenger seat of the car. Brown was arrested and his house searched. No further drugs were found in the house. However, a small quantity of cutting agent was found, together with a small amount of drug equipment and €15.000 in cash, indicating that he is supplying the drug. There is enough evidence to prosecute John Brown for drug dealing.

Brown is convicted at court for possession of the cocaine with intent to supply it to others. The prosecution informs the court that the value of the drug is €15.000.

Brown has been convicted of a serious crime for which he may gain a regular source of income (possession of a controlled drug with the intention to supply). The court therefore

assumed that other assets that the convicted person had owned or benefited from in the past years were the proceeds of crime.

Therefore, the confiscation order was 'extended' beyond the €15.000, which were the assets gained through the drug crime for which he was before the court, to assets assumed to be derived from other criminal similar criminal activity. The court gave Brown notice of its intention to confiscate his wife's car and his brother's house and land, and €250.000 in a savings account in Luxembourg.

The onus of proof as to the legality of these assets then shifted to Brown who could not show to the court that these assets were acquired through legal means.

In the case of Brown, the assets confiscated included both his house and the house of his brother including the land, both vehicles and €250.000 in the savings account.

3

Model 3: Civil Confiscation or forfeiture

John Brown lives on the boundary of a medium size town and worked as an administrative assistant at a local accountancy firm.

He has been a recreational cocaine user for several years, always buying from the same supplier in a neighbouring town. Around 5 years ago he started to supply his own friends, work colleagues and associates with cocaine from the same supplier, using a cutting agent to increase his profit from deals. As his reputation grew, his clientele expanded, and 2 years ago he stopped working, focusing his attention entirely on his expanding drugs business.

Around the same time, he purchased a piece of land next to his house and has now built a detached house for his brother and family to live in. He drives a BMW X5, as does his wife.

Following a tip-off from a local street dealer, Brown was intercepted by the local police Drugs Unit, driving his BMW. He had just collected 0.5 kilo of cocaine from his supplier. The drug was in a bag on the passenger seat of the car. Brown was arrested and his house searched. No further drugs were found in the house. However, a small quantity of cutting agent was found, together with a small amount of drug equipment and €15.000 in cash, indicating that he is supplying the drug. There is enough evidence to prosecute John Brown for drug dealing.

Brown is **NOT** convicted at court for any offences. It is suspected that this was due to technical issues with the prosecution and possible intimidation of witnesses.

A proceeds of crime case can however be brought in relation to the land, the detached house and the two BMWs. An ex-parte application can be made to court

to temporarily freeze the assets pending the full hearing of the action.

A full test of the evidence is heard before the court, with a full right of reply by any person claiming an interest in the property. If the court concludes on the balance of probabilities, that the property represents directly or indirectly the proceeds of criminal conduct, the property may be frozen for a further period. A receiver may be appointed to manage or sell the property and place the proceeds of the sale in an interest bearing account. Anyone claiming an interest in the property can apply to the court to have the property returned during the freezing period but must prove on the balance of probabilities that the property is not the proceeds of criminal conduct. If no applications are made, the state may eventually apply to have the frozen funds forfeited to the state, and thereby extinguishing anyone's rights or claims in the property.

4

Model 4: Unexplained Wealth

John Brown lives on the boundary of a medium size town and worked as an administrative assistant at a local accountancy firm.

He has been a recreational cocaine user for several years, always buying from the same supplier in a neighbouring town. Around 5 years ago he started to supply his own friends, work colleagues and associates with cocaine from the same supplier, using a cutting agent to increase his profit from deals. As his reputation grew, his clientele expanded, and 2 years ago he stopped working, focusing his attention entirely on his expanding drugs business.

Around the same time, he purchased a piece of land next to his house and has now built a detached house for his brother and family to live in. He drives a BMW X5, as does his wife.

Following a tip-off from a local street dealer, Brown was intercepted by the local police drugs unit, driving his BMW. He had just collected 0.5 kilo of cocaine from his supplier. The drug was in a bag on the passenger seat of the car. Brown was arrested and his house searched. No further drugs were found in the house. However, a small quantity of cutting agent was found, together with a small amount of drug equipment and €15.000 in cash, indicating that he is supplying the drug. There is enough evidence to prosecute John Brown for drug dealing.

Brown is **NOT** convicted at court for any offences. It is suspected that this was due to technical issues with the prosecution and possible intimidation of witnesses.

However, the law enforcement agency mandated to look into Brown's wealth, which in this case is the financial police, started their own investigation to examine Brown's

income against the overall value and source of all property he owns.

The financial police have broad powers and among other things such as income, tax records and expenses, they requested bank data and all relevant banking documents, and made copies of accountancy records.

At the conclusion of the investigation, investigators identified that there was a difference between the value of the property owned and the feasible income of the owner.

The difference was higher than the limit set by national law. The financial police submitted a final report of their findings to, in the case of this jurisdiction, a prosecutor and identified all the evidence available to prove the facts.

In this case, the prosecutor is the relevant authority mandated to question individuals on disparity between wealth and income. The prosecutor examined the report prepared by the financial police and asked Brown to clarify the source of his property and to present evidence on the source.

Brown failed to provide a clear and sufficient explanation as to the source of his property, as requested by law. Evidence gathered by the police identified a difference between his income and the property. The prosecutor then filed a motion to the court.

The prosecutor asked the court, in a civil proceeding, to draw a conclusion that the difference between the feasible income and the actual property of Brown was gained from illegal activities, and as such, it should be seized.

The prosecutor presented all the evidence before the court in order to prove that the difference between the feasible income and the property was at least the limit set forth by national law. Once satisfied that this was the case, the court forfeited Brown's property in favour of the state.

