



OAS

More rights
for more people

Secretariat for Multidimensional Security

**XLV MEETING OF THE GROUP OF EXPERTS
FOR THE CONTROL OF MONEY LAUNDERING
October 4-5, 2018
Santa Cruz de la Sierra, Bolivia**

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October 3, 2018
Original: Spanish**

**PRESENTATION
CRIMINAL INVESTIGATION AND FORFEITURE OF VIRTUAL CURRENCIES: THE CARIBBEAN EXPERIENCE**



Overview

- REGIONAL SECURITY SYSTEM- ASSET RECOVERY UNIT (RSS ARU)
- ARIN- CARIB
- CRYPTOCURRENCY

RSS-Asset Recovery Unit



St. Vincent & The Grenadines



Barbados



St. Lucia



Antigua & Barbuda



Dominica



St. Kitts & Nevis



Grenada

ARU

Supported by:



Scope



» Based in Barbados. Covers the seven independent countries of the Eastern Caribbean, Antigua & Barbuda, Barbados, Dominica, Grenada, St Kitts & Nevis, St Lucia and St Vincent & the Grenadines. Provides wider regional support to include key transit countries and the overseas territories of the UK.

Role



» Tackle serious organised crime through partnership and the application of proceeds of crime and money laundering legislation.

RSS-Asset Recovery Unit: Mission

To build capacity and capability within regional law enforcement agencies, Financial Intelligence Units (FIUs), Public Prosecutors, Magistracy and the Judiciary to deal with money laundering and criminal asset recovery.

To enhance efforts in countering serious organised crime by utilising cash seizure, money laundering and confiscation legislation as key components in financial investigation and asset recovery.



RSS-Asset Recovery Unit: Mentoring

- **RSS ARU Advisers travel to each of the RSS jurisdictions on a regular basis**
- **Meet face to face with investigators & prosecutors**
- **Provide detailed, specific advice and direction in respect of ongoing cases**
- **Assist in liaison and engagement with international law enforcement partners (NCA, DEA etc.)**



RSS-Asset Recovery Unit: Training

- **Part of the capacity building remit**
- **Professional development for specialist Financial Investigators**
- **Money laundering and asset recovery ‘awareness’ training for frontline law enforcement**
- **Plans to coordinate financial investigation training delivered by other international donors**



RSS-Asset Recovery Unit: Model proceeds of crime law

- **Standardized and Harmonized money laundering laws**
- **Provide legislative interoperability between RSS countries**
- **Allow better application of UK/Regional/Commonwealth case law**
- **Up to date powers & procedures with tried & tested practical effectiveness**

RSS-Asset Recovery Unit: Ultimate goal



TAKE THE
PROFIT OUT
OF CRIME

ASSET
RECOVERY

Arin Carib

Arin Carib: Milestones

■ **First Steering group meeting** held in Port of Spain, Trinidad – 7th + 8th February 2017 hosted by the Government of Trinidad & Tobago. Successfully drafted first copy of the Statement of Intent. Developed ARIN-CARIB Logo, Website and Marketing plan of the network. Identified several funding streams

□ **Inaugural meeting** held 28-29 June 2017 and attended by criminal justice officials representing 32 jurisdictions and constituent countries in the Caribbean region



□ **Practitioners meeting**
November 2016

□ **Second Steering Group Meeting**
26th June

LAUNCH
27-29 June 2017
Miami



Arin Carib

Overview of Arin Carib

Asset Recovery Interagency Network- Caribbean

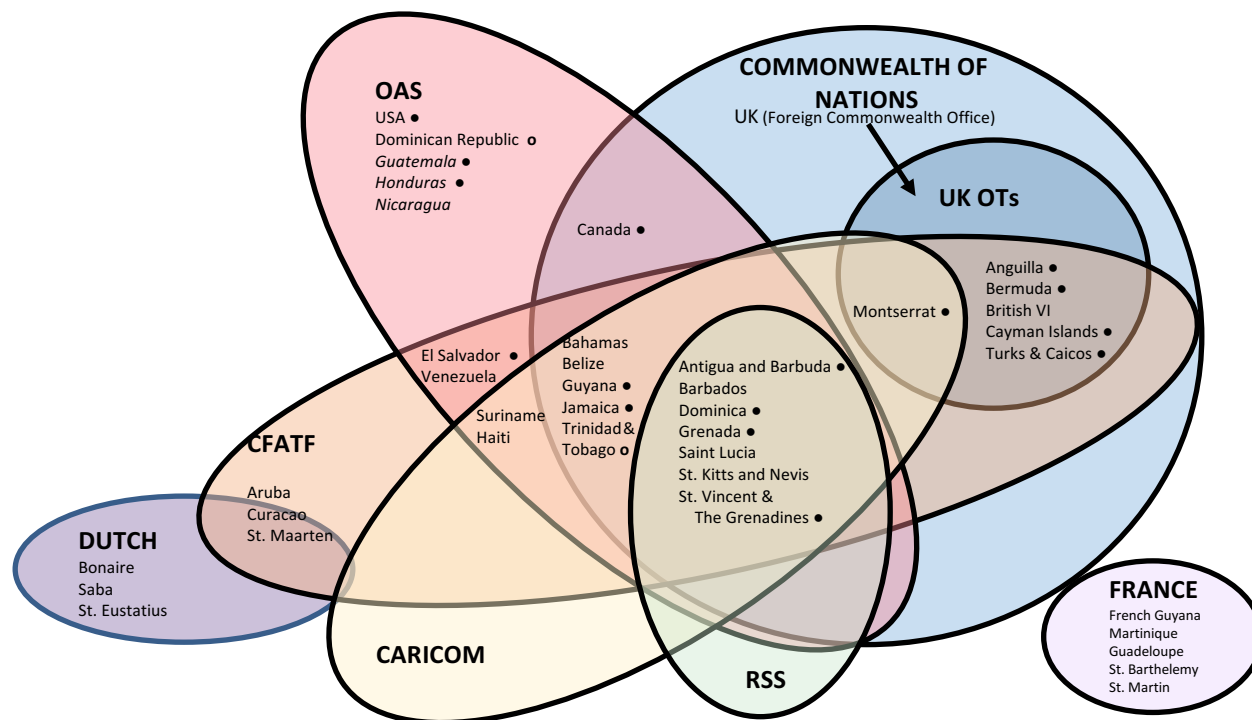
Abbreviation:	ARIN-CARIB
Formation:	28-29 June 2017
Status:	Network
Purpose/ Focus:	Asset Recovery
Membership:	Law Enforcement and Judicial Experts
Official Language:	English
Secretariat:	RSS- Asset Recovery Unit



AIM

To increase the effectiveness of members efforts, on a multi-agency basis, in depriving criminals of their illicit profits

Arin Carib: Membership



Observer Status:

- OAS
- Spain
- United Kingdom
- Canada
- CFATF
- CARICOM IMPACS
- The Commonwealth Secretariat
- Other ARIN Networks

Arin Carib

Role of RSS-ARU as secretariat



- Professional experience, history and continuity for the network to function effectively
- Administrative support
- Support and facilitate the Presidency and the Steering Group
- Draft documents related to ARIN-CARIB activities, and prepare action plans to implement ARIN-CARIB outcomes and recommendations
- Record of ARIN-CARIB strategic planning, projects and decisions taken
- Establish and maintain relations with other bodies and structures in the field of asset recovery
- Facilitate initial contact between ARIN-CARIB Members and Observers and other ARINs, within the available international legal frameworks
- Promote ARIN-CARIB

Arin Carib: Presidency

President 2018



St. Vincent and the Grenadines

President 2019



Jamaica



Arin Carib: Exchanges

ARIN -CARIB	ARIN	2017
80 WhatsApp Request	16 CARIN Jurisdictions	
21 Email	2 RRAG	
101 Request Received	1 OAS	
	81 ARIN-CARIB	
		2018
8 WhatsApp Request	1 Guernsey	
5 email	1 RRAG	
59 Request Received	11 ARIN-CARIB	





CRYPTOCURRENCY

UNITED KINDOM CASE STUDY

UK Police win the
right to convert
seized bitcoin to
cash



R v. Teresko (Serjeks) Proceeds of Crime Act 2002 (Sec 47)

- Surrey Police received calls from members of the public who had witnessed a man being aggressively bundled into a car in leafy Virginia Water on 8 April 2017
- Treated it as a suspected kidnapping



R v. Teresko (Serjeks)

- There was no sign of Teresko
- Police searched his rented property in nearby Cobham
- Rent paid £2,500 a month,
- Discovered an industrial-scale cannabis factory inside.

R v. Teresko (Serjeks)



Pounds 220, 572
Euro 30,000
Thai baht 14,000



Multiple Credit
Cards and Fakes
IDs



£12,000.00





R v. Teresko (Serjega)

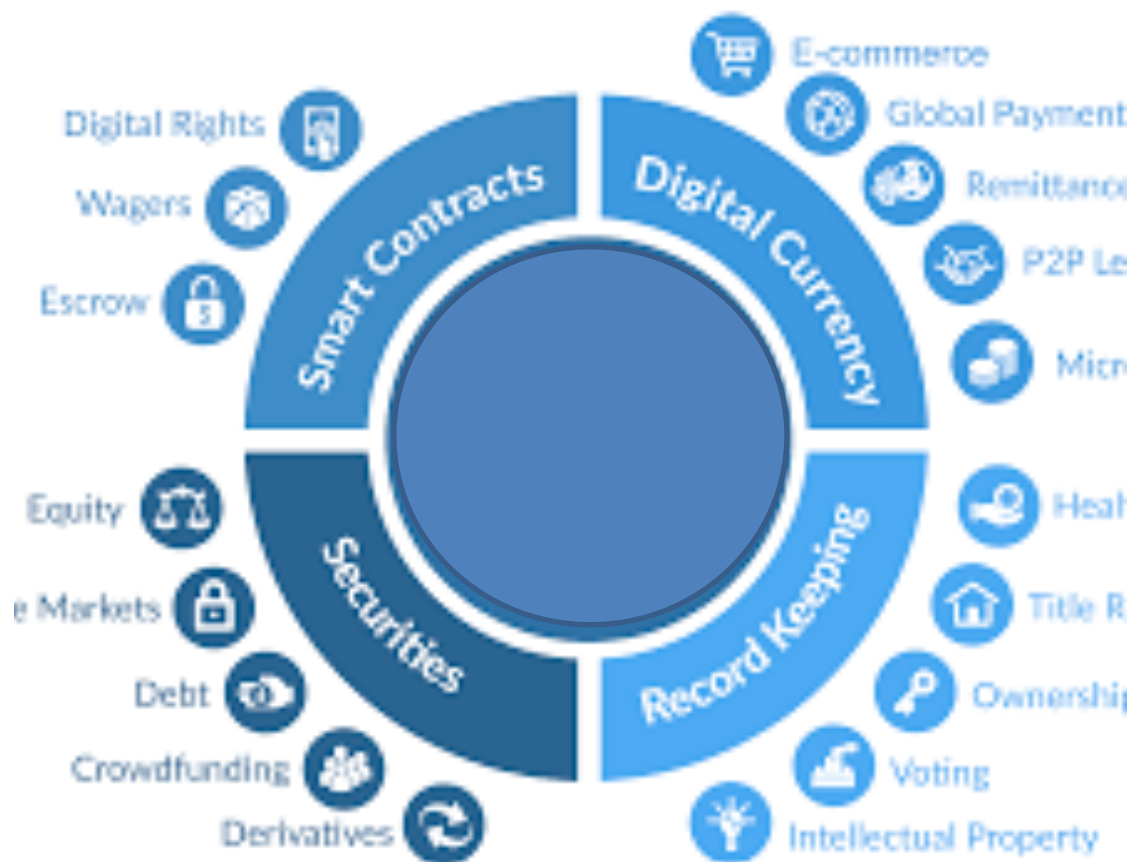


R v. Teresko (Serjeks)

Cryptocurrencies

August 2018 / 1600

- Bitcoin
- Ethereum
- Ripple
- Litecoin
- Bitcoin cash
- Monero
- EOS.io



Blockchain Technology

- Designed to let you safely transfer digital property (like money)
- No need for any middlemen (like banks).
- Skipping middlemen makes transfers faster and cheaper
- No KYC or Due Diligence policies
- Guarantees a secure transfer
- Blockchain is a reliable record

Blockchain Technology



Strong computer code ensures that nobody can change these records after the fact.



Once information is added to the blockchain, it's impossible to remove it.



Fair and trustworthy source of information which anybody can check. This allows strangers to agree that a transfer happened, even if they don't trust each other.

HOW BLOCKCHAIN WORKS

1 registers a transaction



2

Transaction is represented as a block in the shared ledger



3

Block is broadcast to all participants



4 Participants approve the transaction providing consensus



5

Block is added to the chain



6

Single picture of the chain and act state is available to all authorized participants



Criminals utilize Cryptocurrencies

- Store of value and make payments without a centralized (de centralized) authority;
- It solves the Double Spend Problem;
- Transactions are more cost effective;
- Anonymity;
- Are encrypted and not easy to track or access;
- Transactions are undertaken in real time (in a matter of minutes).
- Two keys, that is, the public and the private keys are required to access a cryptocurrency wallet.

R v. Teresko (Serjeks)




The police found a note with what appeared to be instructions to the bitcoin wallet.



The Police made an application under section 47 of the Proceed of Crime Act (POCA), to seize the contents of the bitcoin wallet, though at this time it was still unknown whether it contained anything.

Sec 47. Proceeds of Crime Legislation Power to Seize Property.




(1) On being satisfied as mentioned in section 47B(1) an appropriate officer may seize any realisable property if the officer has reasonable grounds for suspecting that—

(a) the property may otherwise be made unavailable for satisfying any confiscation order that has been or may be made against the defendant, or

(b) the value of the property may otherwise be diminished as a result of conduct by the defendant or any other person.

S. 41 Proceeds of Crime Legislation (Restraint Orders)



1) If any condition set out in section 40 is satisfied the Crown Court may make an order (a restraint order) prohibiting any specified person from dealing with any realisable property held by him.

(2) A restraint order may provide that it applies

a) to all realisable property held by the specified person whether or not the property is described in the order;

(b) to realisable property transferred to the specified person after the order is made.

R v. Teresko (Serjeks)

Confiscation was outstanding. Application was made by the CPS for a restraint order over the defendant's assets under the Proceeds of Crime Act 2002 s.41, including an application under s.41(7) for an order permitting the police to "convert" the 295 bitcoin into sterling, owing to the volatility of bitcoins, and their vulnerability to attack, even when held in a dedicated police bitcoin wallet.

R v. Teresko (Serjeks)

Entirely novel application.

Evidence was adduced of two alternative methods for conversion of bitcoin:

- public auction, a method successfully used in the US, and
- A bitcoin exchange, used by the Dutch police for over five years and subject to due diligence by UK law

R v. Teresko (Serjeks)

- *Held*, the application was granted. The court was satisfied that the power to make such an order was available under s.41(7), and that it was appropriate to make the order. The appropriate means of conversion was the approved bitcoin exchange. The fees for undertaking the conversion were lower than those at public auction, and the effectiveness of using a bitcoin exchange had been established.

R v Teresko (Serjeks)



The application was granted, and when the wallet was opened, it was found to contain two Bitcoin accounts, one empty, but the other containing 295 Bitcoins-valued on that day at £900,000.



These criminal proceeds were seized and moved into a digital wallet created by Surrey Police.



The value at conversion on the international exchange had risen to £1,246,279.33, due to the volatility of the market.

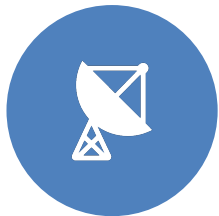
Issues for consideration



The novel application to convert the cryptocurrency (bitcoin) to a fiat currency;



The power of the court to make an order in favour of a third party, namely, the police unlike most ancillary orders which are made against a defendant



The use of a bitcoin exchange to convert the cryptocurrency through the police instead of appointing a receiver;



Whether the increasing value of the bitcoin should be given consideration when converting to a fiat currency.

Can
cryptocurrency
(bitcoin) be
seized by
virtue of being
property

Sec 84 Property: general provisions

(1) Property is all property wherever situated and includes—

(a) money;

(b) all forms of real or personal property;

(c) things in action and other intangible or incorporeal property.

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R v Teresko (Serjeks)

- Teresko was sentenced to nine years and three months in prison, having pleaded guilty to money laundering, cannabis cultivation and the possession and control of articles for use in fraud.

Lesson learnt

Criminals cannot hide their assets just because it is cryptocurrency.



We will come after it and seize it.



We have to be legally audacious.



THANKS!

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Any questions?

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