

Sun Microsystems Grey & Secondary Market and System Recertification Frequently Asked Questions

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Grey Market and Second Hand Market

Q. What is grey market product?

A. Sun considers grey market product to be new Sun product supplied by a party which is not authorized by Sun to do so. Typically, this is a company outside Sun's authorized distribution channel, such as a broker.

Q. What is second hand (or secondary market) product?

A. Sun considers second hand product to be a product which has been previously owned by a legitimate end user customer. Second hand product is typically traded from one end user directly to another or via an intermediary, i.e a broker.

Sun Support, Warranties and Licensing

Q. Will Sun support grey market product?

A. No, Sun's policy is not to allow grey market product to be placed on a Sun support contract

See Grey Market Policy at: <http://www.sun.com/service/serviceplans/greymarketpolicy.pdf>

Q. What is Sun's criteria for system support eligibility?

A. Sun system support is available only for systems which are covered by a valid Solaris RTU license and are in good working condition. Systems placed under a service agreement with Sun or a Sun authorized services reseller for systems support prior to the expiration of a valid Sun warranty or an existing Sun support agreement for that system are deemed to be in good working condition and eligible for Sun support. Under every other circumstance, Sun requires that a system be qualified as eligible for support from Sun. Please see the FAQs below about Sun's Recertification Service.

Q. How can I get lawfully obtained, genuine second hand Sun product onto a Sun support contract?

A. Contact your local Sun support representative and ask for Sun Recertification Services (formerly "SSQS" or System Support Qualification Process) for inspection of your system in order to obtain a recertification certificate.

Q. Will I get Sun warranty support on grey market product?

A. It depends.

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The Sun limited warranty is extended only to the original purchaser or original lessee of the hardware product and may be void in the event that the hardware product is transferred. Unless otherwise agreed to in writing by Sun, warranties are valid only: (i) within the original country of purchase; or (ii) if the original country of purchase is in the European Union, within the European Union. Hardware products that are installed outside the country of purchase may be eligible for warranty services if you have executed and are in conformity with a current Passport or Global Purchase Agreement and have provided Sun with the required installation reports.

Except for products lawfully imported into the European Economic Area (EEA) as stated below, all grey market products are NOT approved by Sun via Passport or Global Purchase Agreement and hence will not be eligible for Warranty Support.

As regards the EEA, only product which is legitimately on the market within the EEA with Sun's consent is entitled to warranty support from Sun. Sun has no legal obligation to honor any warranty claim on product which has been unlawfully imported into the EEA. As many of the new Sun products sold by unauthorized brokers in the EEA originate from outside the EEA, it is quite likely that your grey market product will not be entitled to any warranty support.

Q. Does all grey and secondary market product come with a valid Solaris license?

A. No, only Sun Microsystems and Sun's authorized resellers are lawfully entitled to transfer software licenses to end-users. Therefore any Sun product (e.g. a server) you might purchase from a grey market broker cannot be supplied by that broker with any software (e.g. Solaris) licenses. Any customer purchasing Sun hardware from an unauthorized source must subsequently obtain the required Sun software license(s) directly from Sun.

Q. Are warranties transferable for Sun systems purchased in the Used (Secondary) equipment market?

A. All warranties extend only to the end user customer as an original purchaser from Sun Microsystems or from an authorized Sun reseller. Therefore, warranties are not transferable in the secondary market.

Q. Are Solaris RTU licenses transferable for Sun systems purchased in the Used (secondary) equipment market?

A. Unless the seller of the used equipment has signed an Authorized Remarketing Agreement with Sun and paid a Solaris license fee for the system, the seller has no right to distribute the Solaris software

Q. What factors govern the 'type' of Solaris license required to run Solaris lawfully on a Sun system?

A. Only two factors govern the type of license you need to obtain in order to run Solaris lawfully on a system that has not been supplied with a valid Solaris license (e.g. obtained from an unauthorized source, etc). The first is the version of Solaris you wish to use (i.e. Solaris 8, 9 or 10) and secondly the potential CPU capacity of the system. Solaris licenses are sized on the basis of the number of CPUs a system can hold as opposed to the current physical configuration. For example, in order for a 4-way V890 to run Solaris 9 it will require an 8-way Solaris 9 license.

Q. How does a customer obtain a valid Solaris RTU license from Sun?

A. To license used Sun equipment you can purchase Solaris 8 & 9 from the SunStore (US only), Sun sales rep. Or register for Solaris 10 at www.Sun.com.

Q. Will the installation of grey/secondary market parts into my system effect my existing Sun support contract?

A. Yes, the installation of grey and/or secondary market parts into a system already covered by a Sun support contract is in breach of the terms of that support contract. Sun does not take any responsibility for any damage or loss of availability associated with the installation, potential failure or removal of grey/secondary market parts in any supported system.

Sun Partners

Q. Does the policy apply in connection with Authorized Sun Partners?

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A. The following activities by a Sun Partner are not authorized by Sun:

- acquiring Sun products from an unauthorized source for resale;
- the sale of Sun products to an unauthorized broker; and
- the sale of Secondary Market Products in circumstances in which such a sale is outside the scope of the partner's contract with Sun.

Q. What if a Sun authorized partner does any of the above?

A. If Sun determines that a Sun Partner has engaged in any of the above activities, Sun may take a number of actions, including, but not limited to, the termination of the Sun Partner contract. Any such termination shall not preclude Sun from pursuing any and all applicable legal and equitable remedies, including money damages. Other actions may include the withdrawal of the Sun Partner's eligibility to receive marketing funds or other Sun Partner program benefits for a specified period and/or suspension of the Sun Partner's ability to purchase Sun products and services.

Q. Where can I find a list of authorized Sun partners?

A. you can find a list of authorized Sun Partners on the Sun Partner Directory:

<http://partneradvantage.sun.com/catalog/search/PartnerTab.jsf>

Please contact Sun Partner Advantage Program Partner Contact Center in your region if you have any questions.

- North and South America: partneradvantage_amer@sun.com
- Europe, the Middle East, and Africa: partneradvantage_emea@sun.com
- Asia Pacific: partneradvantage_asia@sun.com

Q. How do I know if a reseller who is offering me Sun product is authorized by Sun to do so?

A. Sun UK maintains a full list of all UK and Ireland based resellers who are authorized to sell the full range of Sun Microsystems products. This list can be [accessed here](#). If the name of the party offering you Sun product is not on that list and they are a UK and Ireland based company then they are not authorized by Sun to sell Sun product. Please contact your local Sun Sales Office to obtain validation of a Sun reseller based inside your region.

Q. What is a Sun Volume Product Reseller?

A. A Sun Volume Product Reseller (VPR) is an authorized Sun reseller contracted only to sell Sun's server product line based on Opteron servers.

Unauthorized Resellers (Brokers)

Q. What other hidden dangers are there in buying grey market Sun product?

A. Apart from the issues of the product not being on the market in your country lawfully and the validity (or otherwise) of all software licenses there are other factors to consider. Sun will not place grey market product on a Sun support contract resulting in you not benefiting from Sun's world-class hardware and software support infrastructure. Sun does not in any way guarantee the quality of Sun product purchased from an unauthorized source. Unlike within Sun's authorized partner network, Sun has no knowledge of how its products are transported, handled and stored within the unauthorized broker network. Sun has seen instances where Sun product offered for sale in the grey market has been stolen and also situations where Sun product has been "upgraded" with 3rd party and/or counterfeit parts. All these factors add to the significant business risk associated with obtaining Sun product from unauthorized sources.

Q. What happens if it turns out the Sun product(s) I have purchased from a broker are stolen?

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A. Sun's policy is to inform the relevant law enforcement agencies if it identifies the whereabouts of any stolen product. It is Sun's experience in these cases that law enforcement agencies tend to immediately remove without notice to the current "owner" stolen property. This can lead to a serious disruption of services and can cause significant issues pertaining to an organization's reputation in the market place.

Q. How can grey market brokers offer Sun product much cheaper than the authorized partners?

A. Much of the new product offered for sale by unauthorized brokers has been unlawfully imported by the brokers from other global markets. Sun Microsystems, like all vendors with a global sales and distribution model, is entitled to ring fence those markets from each other. It is the price differential between these markets, that is being unlawfully exploited by the brokers and allows them to offer seemingly cheap products for sale. It is also worth noting that the price of a Sun product from a grey market broker may seem cheaper than that available from an authorized partner but there are many hidden costs associated with the grey product i.e. lack of warranty support, no support eligibility, invalid Solaris license, etc.

Q. What does Independent Sun Reseller mean?

A. The term reseller is a generic term and has no specific implications for the status of a company - i.e. any company can call itself a "Reseller." Only those companies that have applied to Sun and passed the comprehensive certification process can call themselves a Sun authorized Reseller. Any party describing themselves as an "Independent Reseller" or "Independent Distributor" or such are not authorized by Sun to sell Sun products.

Q. What is Sun doing to curb the unlawful activities of some of the unauthorized brokers?

A. Sun Microsystems globally monitors the activities of unauthorized brokers and does act when appropriate to protect its Intellectual Property (IP) rights and its reputation as a supplier of high quality and reliable computer products. Sun takes these measures to protect its customers from unscrupulous brokers and to protect its IP rights as a global supplier.

Q. How can I be sure I get the highest quality Sun product when I make my investment in Sun technology?

A. The only way to ensure you get a high quality product when you make your investment in Sun technology is to ensure you are purchasing Sun product from Sun directly or a Sun authorized partner. If you are in any doubt about the contractual status of any party offering to sell you Sun product you can ask the company to provide you with written confirmation that they are a "Sun authorized Partner" and to quote their Sun partner agreement number. If the company is unable or unwilling to do this then they are unlikely to be a Sun authorized partner.

You can also contact your local Sun Sales Office to obtain validation that a reseller is authorized by Sun.

Q. If a company's web page displays the Sun logo can I assume they are authorized by Sun to sell Sun product?

A. No, a reseller can exhibit some of Sun's trademarks and logos on their web site so long as they do so to identify genuine Sun products and use the trademarks in accordance with honest commercial practices. Therefore, the display of a Sun Microsystems logo or trademarks on a web site is no guarantee that any contractual relationship exists between that company and Sun Microsystems, Inc..

Sun Recertification Service

Q. What is Sun Recertification Service (formerly SSQS)?

A. Sun's Recertification Service (formerly "SSQS" or System Support Qualification Process) is designed to support those customers wishing to purchase legitimate second hand product on the open market and subsequently wish to place it on a Sun support contract. The Sun Recertification Service process initially involves a provenance check on the product in question to ensure it is on the relevant market both legally (i.e not stolen) and lawfully (for example, first placed on the market in the European Economic Area with Sun's explicit consent). The process also involves an on-site inspection and test of the system(s) in question and a validation of

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the relevant Solaris licenses. Once all the tests and inspections have been passed the system(s) will be issued with a Sun Recertification or Qualification Certificate which entitles the system to be placed on a Sun support contract. The certificate is valid for 120 days and the certification process is subject to a fee that does not include any parts and labor required to resolve any hardware related issues.

For more information contact your local Sun support representative.

Q. What services are performed during a system recertification?

A. Sun will complete an audit, inspection, testing, and repairs necessary to assess and validate good working condition of the specified Sun system for Sun support. The system will be inspected and tested for physical damage, missing, altered and non-Sun components. The system will be inspected for Sun-specified release levels. Any repairs will be performed based on Sun's inspection and testing findings.

Q. How does Sun validate that system recertification has been performed?

A. Upon successful completion of the system recertification, the customer will receive a Qualification Certificate from Sun showing the system is automatically eligible for Sun support.

Q. Does the Qualification Certificate expire for system support eligibility?

A. Yes, the Qualification is valid for 120 days from the date of issuance or installation of the Qualified system whichever occurs first. Upon expiration of the Qualification certificate, the qualified system will no longer be considered qualified, and will be required to undergo another qualification and issuance of a new certificate.

Q. Are there any actions that would invalidate the Qualification Certificate?

A. Self maintenance by the customer or the use of an unauthorized service provider invalidates the Qualification by Sun. Also, in the event that a qualified system is relocated by a party other than Sun, subsequent to the qualification and the system is damaged, the qualification would be invalidated by Sun.

Q. Is proof of purchase required to ensure system support eligibility?

A. The customer may be required to supply proof of purchase from Sun or an authorized channel partner for the system and valid Solaris RTU license. Acceptable copies of proof of purchase may include invoices, purchase orders or sales orders.

Q. What type of warranty is included in these qualification services?

A. No warranty of systems is included as part of this service. The service provides eligibility for Sun Support for a period of 120 days.

Any parts supplied under this program are warranted against defects in workmanship and material for a period of thirty days from the date of installation of such parts. Materials not replaced during the qualification services are the sole responsibility of the customer.

Q. How will the customer arrange for the qualification services?

A. The customer can contact their local Sun Sales representative or log a Service call (1-800-USA-4Sun in US) (1-800-722-4SUN in Canada) requesting on site assistance or find additional information at www.sun.com/contact/index.jsp?tab=3

Q. How will the customer be charged for the qualification services?

A. The audit, inspection, and testing will be billed on a fixed fee basis, any repairs and materials will be billed at applicable Sun price list or time-and-materials rates.

Q. How does qualification services impact the 90 day observation period?

A. The system recertification makes the 90 day T&M observation period obsolete. The customer will no longer be

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required to comply with a 90 day T&M observation prior to system support. Qualification certificate provides maintenance eligibility for 120 days from issuance.

Q. Can the Sun Recertification service offering be sold by an authorized Channel partner?

A. Yes, this Recertification service offering can be sold by an authorized Channel partner. The Channel partner should follow Sun's procure model and would be offered a standard Reseller/CDP discount (US Only) for any deals leveraged within their installed base.

Q. Can this new service offering be delivered by an authorized Channel partner?

A. No, this new service offering cannot be delivered by an authorized Channel partner. The system recertification must be performed by an authorized Sun service provider who can diagnose and repair the system leveraging Sun's service inventory pipeline.

Q. Does SunTONE or AIP (Authorized Installation Provider) certification qualify me as an authorized Sun service provider for qualification services?

A. No, these training and certification programs do not qualify a Channel partner to be an authorized service provider of qualification services.

Q. What are the customer benefits of system recertification?

A. The customer benefits of this service offering include:

- Well defined and consistent service policy
- 90 day T&M observation period is eliminated
- Qualified systems are maintenance eligible
- Improved Field product quality
- Reduced system downtime & improved availability
- Improved customer experience
- TCO (Total Cost of Ownership) savings by purchasing Remanufactured vs Secondary market systems
- Preserve customers investment in Sun hardware and services

Q. What are the benefits to Sun for system recertification?

A. The benefits to Sun of this service offering include:

- Increased SMI revenues
- Lower cost of ownership – Sun Vs Secondary Market
- Improved customer experience
- Improved customer loyalty
- Consistent and well defined business practices
- Reliable and maintainable systems
- Consistent Maintenance Eligibility requirements
- Improved Field product quality
- Reduced system downtime & improved availability
- 90 day T&M observation period is eliminated
- Preserve customers investment in Sun hardware and services

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Q. Who do we engage for System Recertification ?

A. Contact your local Sun support representative

Q. Are there any special circumstances that warrant a T&M observation period?

A. The 90 day T&M observation period will remain in effect only for those systems affected by catastrophic events such as: fire and/or water damage, earthquakes, hurricanes, terrorist attacks, etc. Also, the 90 day T&M observation period will be applicable for instances where customer would attempt to install Secondary Market components into Sun systems already under valid maintenance contracts. Finally, the 90 day T&M observation will be applicable to system relocation's without an authorized Sun service provider involved to ensure system operability.

Sun's Positioning to End User Customers regarding the Grey Market

Q. Why Purchase Sun products from Sun or its Authorized Sun Partners?

A. Please consider the following:

1. Your Sun Product will include a valid Solaris Operating Environment license as part of the cost of the system. Unless otherwise required by local law, purchases from unauthorized brokers do not include a valid Solaris license.
2. Your Sun Product is immediately eligible for Sun support and maintenance whereas if you purchase the equipment from an unauthorized brokers, such equipment will need to be re-certified if you want Sun support and maintenance. Recertification generally takes approximately 90 days and it is costly to bring the equipment up to Sun serviceability standards.
3. Your Sun Product is immediately under Sun's manufacturer's warranty and you may be eligible to upgrade the warranty at substantial price discount. Equipment purchased through unauthorized brokers do not include a Sun warranty.
4. You can be assured that the Sun Product will contain Sun authorized components, up-to-date Engineering Changes and current versions of the Product's firmware and Solaris OE software.
5. You will avoid the possibility of purchasing fraudulent, tampered or counterfeit products. There is no risk of the substitution of sub-standard, non-qualified components, cables and peripherals commonly associated with purchases from unauthorized brokers.
6. Where applicable, you will receive Sun Site Assessment and Installation Services delivered by qualified Sun personnel. unauthorized brokers cannot offer these services.
7. You are eligible to participate in Sun's robust financing programs that include competitive leasing options and technology refresher programs.
8. Your purchase of the Sun Product may be eligible to be credited for Sun's Volume End User (VEU) discount program, which can result in substantial cost savings. Purchases from unauthorized brokers are not eligible for discount qualification.
9. You are eligible to participate in Sun's Upgrade Allowance programs (UAP), which allows customers to upgrade their systems to the latest generation of technology at financially attractive terms. Purchases from unauthorized brokers are not eligible for UAP.
10. You will be eligible to continue to receive sales support from Sun representatives, including Sun's knowledgeable technical engineering support team.

FAQs Specific to the European Economic Area (EEA)

Q. What is the European Economic Area (EEA)?

A. The EEA is the term used to describe the "internal market" of the European Union and is made up of the 25 member states of the EU plus the 3 subscribing states of Norway, Lichtenstein and Iceland.

Q. What is meant by "unlawfully imported product"?

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A. Sun Microsystems is entitled through the enforcement of its trademark rights to control into which market products are placed and must remain. Only with the explicit permission of Sun, as the trademark owner, can product bearing Sun's trademarks be migrated between markets. Therefore, any Sun product brought into the UK from outside the European Economic Area without Sun's explicit permission is considered to have been unlawfully imported.

Q. *What is an "EU serial number"?*

A. Many brokers, trying to allay the concerns of their potential customers regarding the source of their product, use the term "EU Serial number". The term is designed to make the customer feel that the product is on the market in the UK legitimately and that it has not been unlawfully imported. Usually the basis for this assertion is either where the product was manufactured (e.g "Made in Ireland") or where the broker obtained the product (e.g another broker within the EU). Neither of these factors gives any protection against the likelihood that the product has been unlawfully imported. Sun manufactures product in a number of plants in the EU but the product those plants produce is just as likely to be placed on the market by Sun outside the EU as it is to be sold inside the EU. Therefore, an unauthorized broker is unlikely to know the true provenance of Sun product they obtain from other unauthorized brokers, even if those brokers are within the EU.