

FAQ

THE NEW CLEAR COOPERATION POLICY

The National Association of REALTORS® Board of Directors approved MLS Statement 8.0, also known as the Clear Cooperation policy, at its meeting in November of 2019. Effective May 1st, 2020, State-Wide MLS will incorporate this policy into our Rules and Regulations. NAR created this policy to address the growing use of off-MLS listings, concluding that leaving listings outside of the broader marketplace excludes consumers, undermining REALTORS® commitment to provide equal opportunity to all. The policy doesn't prohibit brokers from taking office-exclusive listings, nor does it impede brokers' ability to meet their clients' privacy needs.

Rationale: Distribution of listing information and cooperation among MLS participants is pro-competitive and pro-consumer. By joining an MLS, participants agree to cooperate with other MLS participants except when such cooperation is not in their client's interests. The public marketing of a listing indicates that the MLS Participant has concluded that cooperation with other MLS participants is in their client's interests. This policy is intended to bolster cooperation and advance the positive, procompetitive impacts that cooperation fosters for consumers.

What is the Clear Cooperation Policy?

The Clear Cooperation Policy is a policy mandated by NAR designed to eliminate pocket listings across the country. Adoption of this policy by all MLSs is required. Specifically, the policy reads as follows:

Section 4.0, Clear Cooperation: *A Report of listings shall be made in conformity with Section 4.1 and Section 4.5 below. Within one (1) business day of marketing to the public a property of the type required to be submitted under Sections 4.1(a)-4.1(d), the listing broker must submit the listing to the MLS for cooperation with other MLS participants. Public marketing includes, but is not limited to, flyers displayed in windows, yard signs, digital marketing on public facing websites, brokerage website displays (including IDX and VOW), digital communications marketing (email blasts), multi-brokerage listing sharing networks, and applications available to the general public.*

Note: Exclusive listing information for required property types must be filed and distributed to other MLS Participants for cooperation under the Clear Cooperation Policy. This applies to listings filed under Section 4.1 and Non-MLS listings exempt from distribution under Section 4.2 of the these MLS rules, and any other situation where the listing broker is publicly marketing an exclusive listing that is required to be filed with the service and is not currently available to other MLS Participants.

Questions? Please contact
MLS Customer Service at:

P: 401-432-6904

E: info@statewidemls.com





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What is considered public marketing under this policy?

Public marketing includes, but is not limited to, flyers displayed in windows, yard signs, digital marketing on public facing websites, brokerage website displays (including IDX and VOW), digital communications marketing (email blasts), multi-brokerage listing sharing networks, and applications available to the general public.

Do ALL REALTOR® Association MLSs have to adopt the MLS Clear Cooperation Policy?

Yes. By establishing a national policy, it is mandatory that all REALTOR® Association MLSs adopt the policy and have the same consistent standard.

What property types are applicable under this new policy?

This policy will only affect those property types considered “mandatory” under the Rules and Regulations taken on an exclusive listing agreement. Specifically, Single-family, Condominium, Multifamily, and Vacant Land.

Can a seller or the listing broker “opt out” of the policy’s obligations?

No. The new policy does not include an “opt out.” Any listing that is “publicly marketed” must be filed with the service and provided to other MLS Participants for cooperation within (1) one business day.

What is the meaning of “business day?”

Business days exclude Saturdays, Sundays and holidays. The NAR MLS Advisory Board specifically revised the policy’s timeframe due to concerns with enforcement to provide greater flexibility for days when submitting the listing to the service could be a challenge. For consistency among all REALTOR® Association MLSs, the approved timeframe is 1 business day; “holidays” include all recognized federal and state holidays.

How does the new deadline of “1 business day from marketing a property to the public” correspond with the existing State-Wide MLS filing deadline of 24 hours?

State-Wide’s filing deadline is twenty-four hours, excluding state and federal holidays, following the effective date of the listing agreement. This new Clear Cooperation Policy does not change that filing requirement. You must continue to submit your listings to the MLS within the twenty-four timeframe. However, if you have a listing that is normally required to be submitted to MLS, but instead is a Non-MLS, you are prohibited from publicly marketing those properties. Should you publicly market the property, you would then be required to submit the listing to MLS in 1 business day.

Is the new policy consistent with Article 3 of the NAR Code of Ethics?

Yes. By joining the MLS, Participants agree to be bound by the MLS Rules and Regulations. Per the policy’s rationale, the public marketing of a listing indicates that the MLS participant has concluded that cooperation with other MLS participants is in their client’s best interests.





Does this policy eliminate or in any way impact the current Coming Soon policy?

No. This policy does not affect our current Coming Soon policy. You can continue to take Coming Soon listings and publicly market them as such, provided you have filed the appropriate form and entered the listing as Coming Soon in the MLS.

Why was this policy approved?

Brokers and MLSs from across the country asked NAR to consider policy that will reinforce the consumer benefits of cooperation. The MLS creates an efficient marketplace and reinforces the procompetitive, pro-consumer benefits that REALTORS® have long sought to support. After months of discussion and consideration within NAR's MLS Technology and Emerging Issues Advisory Board, this proposal was brought forth for the industry to discuss and consider, then approved by NAR's Board of Directors.

Who made the decision that this policy was needed?

NAR's MLS Technology and Emerging Issues Advisory Board is made up of brokers and MLS executives from across the country. Two dozen volunteers review industry concerns from a wide range of business and regional viewpoints. Potential policy changes are discussed within the group to create a positive impact on the industry and to address broker needs within the marketplace. The policy was strongly supported by the NAR MLS Committee and the NAR Board of Directors.

Does this policy prohibit Non-MLS, Exempted Listings and Office Exclusives?

No. Non-MLS listings are an important option for sellers concerned about privacy and wide exposure of their property being for sale. In a Non-MLS listing, direct promotion of the listing between the brokers and licensees affiliated with the listing brokerage, and one-to-one promotion between these licensees and their clients, is not considered public advertising. Common examples include divorce situations and celebrity clients. It allows the listing broker to market a property among the brokers and licensees affiliated with the listing brokerage. If Non-MLS listings are displayed or advertised to the general public, however, those listings must also be submitted to the MLS for cooperation.

If I have a Non-MLS listing, am I permitted to publicly market the property?

No. Under this new policy, Non-MLS listings are no longer permitted to be publicly marketed. However, internal communications within the listing brokerage firm are permissible.

Can my sellers publicly advertise a Non-MLS listing?

No. Marketing by the sellers, including social media, is considered public marketing under this policy.

Can anyone advertise a non-MLS listing?

No. If the property is advertised by anyone, including sellers, sellers' friends, neighbors, photographers, etc, then the Listing Broker is obligated to submit the listing to MLS.



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When taking a Non-MLS listing, what internal communications are considered “direct promotion” and thereby permissible?

In a Non-MLS listing, direct promotion of the listing between the brokers and licensees affiliated with the listing brokerage, and one-to-one promotion between these licensees and their clients, is not considered public advertising. However, this promotion is limited to the licensees in the listing office (or branch offices) of the same Principal Broker who is the MLS Participant. It is not permissible to market the listing to other brokerages affiliated with the same franchisor. For example: Fictitious National Franchise ABC Realty has three offices. The listing broker can market the listing amongst the licensees of those three office locations because the same Principal Broker owns and operates all three offices. However, the listing cannot be shared with Fictitious National Franchise 123 Real Estate, Inc. or Fictitious National Franchise XYZ Realty Partners, both being independent companies owned and operated by a different Principal Broker. Likewise, the listing can not be communicated to the Fictitious National Franchise franchisor for sharing among all Fictitious National Franchise franchisees. Communications must remain internal within the listing Principal Broker Participant’s firm.

Can a Non-MLS listing be entered as a Coming Soon listing?

No. When a listing agreement is signed you may enter a Coming Soon listing and that listing may stay Coming Soon for up to its first 30 days. Therefore, when you enter into a listing agreement, your options will be to either:

- A. Sign a Non-MLS form and not market the property,
- B. Sign a Coming Soon form and enter the listing into MLS as Coming Soon. Allows for marketing, but can’t be shown during the Coming Soon period.
- C. Enter it directly into MLS as an Active listing.

Does this policy require listings to be submitted to the MLS if they are advertised to a select group of brokers outside the listing broker’s firm?

Yes. Marketing to any private listing network, social media group, or other such network of licensees that includes any brokers or licensees who are not affiliated with the listing brokerage will constitute public advertising or display pursuant to the Clear Cooperation policy. Listings shared in multi-brokerage networks by participants must be submitted to the MLS for cooperation.

What if the listing isn’t ready to be shown? Are “Coming Soon” or “Delayed showing” listings still allowed?

Yes. Coming Soon and Delayed Showings are still allowed according to our policies already in place.

Does this policy affect the One Time Showing Agreement with FSBOs?

No. Those agreements do not constitute a listing agreement and, therefore, do not fall under this new policy.