

# Clear Cooperation MLS Policy 8.0 Rules Changes Coming April 30th: Your Questions, Answered

As a REALTOR®-owned MLS, RMLS™ should stay in compliance with the National Association of REALTORS® (NAR) MLS Model Rules. For 2020, NAR made several changes to the MLS Model Rules that are mandated. The first mandatory change was reviewed and approved by the RMLS™ Board of Directors at their January meeting and became effective on February 17, 2020 which resulted in a change to Section 8.3.

The second part of the 2020 NAR Model Rule changes were reviewed and approved by the RMLS™ Board of Directors and will become effective on April 30, 2020. The changes incorporate the NAR-mandated Clear Cooperation MLS Policy 8.0 that governs the public marketing of listings and their entry into the multiple listing service. Within one (1) business day of marketing a property to the public, the Seller's Agent must submit the listing to the MLS for cooperation with other MLS participants.

For more information regarding this policy, please see these NAR resources:

- NAR-Window to the Law: Understanding the MLS Clear Cooperation Policy
- NAR-MLS Clear Cooperation Policy

Changes to the RMLS™ Rules and Regulations includes the following:

- Section 3.2, Acceptable Listings, the definition of marketing was changed to match the NAR policy.
- A new section, 3.3 Clear Cooperation, was added per the NAR policy. *As a result, subsequent subsections will be renumbered accordingly.*
- Section 3.3 was changed to Section 3.4, Office Exclusives, and was updated to match the NAR policy.

Changes to the Oregon Listing Contract and Washington Listing Contract includes the following:

- In the “Exclusive Right to Sell” section...
  - The title to the Authorization to Exclude from MLS and Public Marketing Addendum was updated to match the new title of the form.
  - In the last paragraph the marketing definition was changed to match the NAR policy.

Changes to the Authorization to Exclude from MLS and Public Marketing Addendum includes the following:

- Title changed to “Authorization to Exclude from MLS and Public Marketing Addendum”
- Section 1 – updated the subscriber count
- Section 2 – Updated the title of the addendum and added “...and from public marketing.” to the last sentence.
- Section 5 – Added “...or publicly marketed in any way.” to the last sentence.
- Section 6 – The entire section was replaced with the

following text:

*CLEAR COOPERATION/PUBLIC MARKETING: Within one (1) business day of marketing the property to the public, the property no longer qualifies to be excluded from the MLS and the Participant must submit the listing to RMLS™ 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 communication marketing (email blasts), multi-brokerage listing sharing networks, and applications available to the general public.*

- Section 8 – Text referencing “...public marketing...” was added in several locations.

## **Frequently Asked Questions**

### **Why was this policy approved?**

MLSs and Brokers 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 pro-competitive, 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.

**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.

**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.

**Does Policy Statement 8.0 prohibit office exclusives?**

No. “Office exclusive” listings are an important option for sellers concerned about privacy and wide exposure of their property being for sale. In an office exclusive 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 broker to market a property among the brokers and licensees affiliated with their brokerage. If office exclusive listings are displayed or advertised to the general public, however, those listings must also be submitted to the MLS for cooperation.

**Does Policy Statement 8.0 require listings to be submitted to the MLS if they are advertised to a select group of brokers outside the listing broker's office?**

Yes. "Private listing networks" that include more brokers or licensees than those affiliated with the listing brokerage constitute public advertising or display pursuant to Policy Statement 8.0. Listings shared in multi-brokerage networks by participants must be submitted to the MLS for cooperation.

**Does Policy Statement 8.0 apply to non-active listings?**

Yes. Policy Statement 8.0 applies to any listing that is or will be available for cooperation. Pursuant to Policy Statement 8.0, "coming soon" listings displayed or advertised to the public by a listing broker must be submitted to the MLS for cooperation with other participants.

**Does Policy Statement 8.0 apply if there is no listing agreement on file?**

MLS compliance, including NAR® policy 8.0, is activated once a listing agreement is signed by all required parties. For scenarios in which no listing agreement is in place, RMLS™ recommends that you consult with your broker and/or reach out to your state association for information if you suspect/or have concerns about a FREC/Code of Ethics violation.

**What is the meaning of "business day?"**

Business days exclude Saturdays, Sundays and holidays. For consistency among all REALTOR® Association MLSs, the approved timeframe is 1 business day.; "holidays" include all recognized federal and state holidays.

**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.

**Can I advertise a property on third party websites?**

The MLS exists to facilitate cooperation and compensation. If you choose to advertise a property without a listing agreement on third party websites your compensation and/or broker participation is not guaranteed.

**Can I market my excluded listing on Social Media?**

For properties that have an Authorization to Exclude from MLS and Public Marketing Addendum, and the like, filed with RMLS™, all forms of social media marketing during the exclusion time period violate the 8.0 policy.

**Prior to this rule change if a property was excluded from the MLS and then the sellers had a change of heart and wished to publish the property in the MLS they had to wait 30-days after the expiration of the contract in order to list the property in the MLS. Does this apply?**

Once this new rule goes into affect, the 30-day waiting period will be removed.

That said, RMLS™ is happy to guide you through a specific situation or answer questions you may have. Contact the RMLS™ Data Accuracy staff at (503) 236-7657; we are happy to help answer your questions!