



MLS



Clear Cooperation 2020

NAR[®], MIAMI MLS and YOU



MLS



Why do we need a Policy on Clear Cooperation?



MLS



Commercial, Vacant Land, Multi-Family
over 4 units and Developer properties are
EXEMPT and **NOT** impacted by this change.

Policy went into effect January 1, 2020 - MLSs can adopt the policy any
time, but they must adopt it no later than May 1, 2020.

MIAMI's Policy goes into effect April 20, 2020



MLS



MLS Clear Cooperation Policy

Within one (1) business day of marketing a property to the public, 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.

(Adopted 11/19)

MLS Clear Cooperation Policy

MLSs can adopt the specific policy language under Listing Procedures. Below are the changes to the NAR model MLS Rules. These changes will be reflected in the Model MLS Governing Documents found in the 2020 Handbook on Multiple Listing Policy (updated version expected January 2020):

Section 1.01 – Clear Cooperation

Within one (1) business day of marketing a property to the public, 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. (Adopted 11/19)

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 1 and listings exempt from distribution under Section 1.3 of the NAR model MLS rules if it is being publicly marketed, 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.

Section 1.3 Exempt Listings

If the seller refuses to permit the listing to be disseminated by the service, the participant may then take the listing (office exclusive) and such listing shall be filed with the service but not disseminated to the participants. Filing of the listing should be accompanied by certification signed by the seller that he does not desire the listing to be disseminated by the service.

Note 1: Section 1.3 is not required if the service does not require all (indicate type[s] of listing[s] accepted by the service) listings to be submitted by a participant to the service.

Note 2: MLS Participants must distribute exempt listings within (1) one business day once the listing is publicly marketed. See Section 1.01, Clear Cooperation.

Frequently Asked Questions

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.

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 local MLS's filing deadline, which varies from MLS to MLS?
The local MLS's filing deadline, typically found in Section 1 of the MLS rules, is the amount of time that a broker has to file the listing with the service after receiving all of the appropriate signatures on the listing contract. Once a broker begins to publicly market the property, they have 1 business day to file the property with the service. Specific questions about filing deadlines can be directed to your local MLS.

In some markets, listing brokers use exempt listings to withhold sales information from the MLS. This can be of particular concern in non-disclosure states. Under the new policy, can a broker, after receiving instruction from their client, withhold sales information from the service?
This is a matter of local discretion. In most MLSs, Participants are required to submit status changes to the service, including the details of a sale and the sales price. However, this does not prevent the MLS from exploring and establishing local options and specific criteria to withhold sales data when requested by the seller (or buyer). MLSs are encouraged to work with local brokers to determine their needs.

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.

If the MLS has established a coming soon status, or other pre-marketing solution that shares listing data with all MLSs participants and subscribers, does that comply with the cooperation requirements of the policy?
Yes.

Does the new policy require changes to the local MLS rules?
Yes. MLSs can adopt the specific policy language under Listing Procedures. Below are the changes to the NAR model MLS Rules. These changes will be reflected in the Model MLS Governing Documents found in the 2020 Handbook on Multiple Listing Policy (updated version expected January 2020).

Section 1.01 – Clear Cooperation
Within one (1) business day of marketing a property to the public, the listing broker must submit the listing to the MLS for cooperation with other MLS participants.

Does Policy Statement 8.0 require listings to be included in an MLS's IDX display?
No. While listings that are displayed on the MLS must be submitted to the MLS and distributed to other MLS participants for cooperation, submitting a listing for cooperation within the MLS does not necessarily require that listing to be included in an MLS's IDX display. If the seller has opted out of an MLS's IDX plan, asking clients to determine an appropriate marketing disclosure of the benefits to market exposure.

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, the direct promotion of the listing between the broker and licensee is limited to the listing agent and one-to-one promotion between the listing agent and their clients, is not considered public marketing.

Has this kind of policy been implemented somewhere already?
Similar policies have been enacted in some markets. MRED in Illinois has a similar policy in place. The organization has produced a white paper explaining the benefits to the marketplace, is a similar policy in the Eastern seaboard. MLS in the Seattle area has had a policy disallowing the pre-marketing of properties since 2013. Its intent could be viewed as similar to Policy 8.0 in terms of encouraging greater participation and inventory within the MLS.

How can an MLS address compliance?
Compliance is up to local determination. The policies in the market previously discussed usually include an escrowing process of warnings and fines. Restricting non-compliance is often taken care of by the agents and consumers become aware and can report unlimited listings by MLS participants to the MLS.

What exclusive listings and property types are application under the new MLS Statement 8.0?
The definition of Statement 8.0 was specifically adopted to address concerns with residential "for sale" exclusive listing contracts required to be filed with the service. Based on the Advisory Board's discussions, multiple properties (single family homes, condos, etc.) and other property types, such as other exclusive listings that require mandatory submission, can be included in the application of Statement 8.0 at local discretion.

How will the new policy affect listings not yet "days on market?"
These are factors that can be determined locally to submit properties which are not yet ready for sale. Brokers should discuss with their MLS the desire to become active, whether a temporary "coming soon" or "no show" status is allowed, and when "days on market" will begin in these scenarios.

Why was the time-frame within the recommendation specified to one business day?
The MLS Board and Governing Bodies Advisory Board held a conference call on October 30, 2019. Based on feedback and concerns over the time enforcement, the time-frame was changed from 24 hours to "one business day."

Is the timeline for this Policy?
It is effective from January 1, 2020 with local action required by no later than 5/1/2020.



MLS



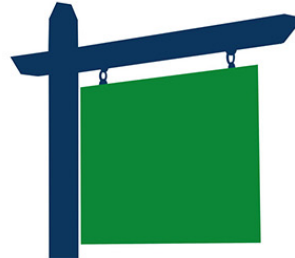
What is Public Marketing?

Policy 8.0 states that a property must be listed in the MLS within one business day of marketing a property to the public.

Public marketing includes, but is not limited to:



FLYERS Displayed in Windows



YARD Signs



Digital MARKETING

on public facing websites including Social Media & applications available to the public



BROKAGE Website Display
(including IDX and VOW)



Digital Communication MARKETING
(email blasts)



Multi-brokerage LISTING
sharing networks

Section 1.3 Exempt Listings

If the seller refuses to permit the listing to be disseminated by the service, the participant may then take the listing (Office Exclusive) and such listing shall be filed with the service but not disseminated to the participants. Filing of the listing should be accompanied by certification signed by the seller that he does not desire the listing to be disseminated by the service.



OFFICE EXCLUSIVE / EXEMPT LISTING – *Exclude from the MLS*

Property Address: _____

Listing Agreement Beginning Date: _____ Listing Expiration Date: _____

Listing Brokerage Name: _____

While the purpose of the MLS is to facilitate cooperation between MLS Brokers and their agents to successfully bring sellers and buyers together, it is also understood that there are circumstances under which the property owner(s) may seek anonymity/privacy and instruct their broker to withhold their property listing from the MLS. Initialing and signing of this form will be notice to the MLS that you, as the property owner, have instructed your brokerage that the sale of your property will be handled exclusively within the listing brokerage. **Note: Submission of this form and the complete listing contract is required to be submitted to mls@miamire.com within 2 days of the dated signature of the owner(s) of record or the listing effective date on the Listing Agreement if not entered immediately into the MLS.**

Initials and signatures of all owners and signatures of both the listing broker/office manager and agent are required for validation – no changes or strike-throughs will be accepted.

- A. **Impact of the Exclusion of the property from the MLS**
As Owner(s), I/We request to exclude the listing from the MLS and to allow the brokerage to act in my/our best interest. By approving exclusion of the property from the MLS, our broker will not be cooperating with other MLS brokers in the sale of this property. This will exclude a combined 90,000+ REALTORS® in Southeast Florida that would potentially be exposed to the property listing – the added exposure to a broader market of potential buyers could result in a more favorable outcome.
- B. **As Owner(s), I/We understand that any public marketing of this property will trigger the MLS Rules and Regulations requirement that the property be entered into the MLS within one business day for cooperation with other MLS Brokerages. Note: Public marketing includes, but is not limited to, flyers displayed in windows, yard signs, digital marketing on public facing websites, all social media platforms public or private, brokerage website displays (including IDX and VOW), digital communications marketing (email or text blasts, or automated voice calls / messaging), multi-brokerage listing sharing networks, and applications available to the general public.**
- C. **FAIR HOUSING - By signing this form, I/We affirm that the property is not being excluded from the MLS based upon reasons founded on refusal or reluctance to show, list, negotiate or sell property to any individual or group of individuals on the basis of membership in any class, including but not limited to race, color, religion, national origin, sex, ancestry, age, marital status, physical or mental handicap, familial status or any other class protected by local, state and federal fair housing laws.**

In accordance with MLS Rules and Regulations, by initialing above and signing below, as the property Owners, I/We are providing written instructions to the listing brokerage affirming that the property will not be entered into the MLS during the entire listing period and further acknowledge(s) that any public marketing of the property will require entry into the MLS within one business day. This Listing Exclusion may be withdrawn by the listing office at any time and placed in the MLS upon the Owner's authorization.

| | | |
|--------------------------|-----------------------|------------|
| Owner Name (Print) _____ | Owner Signature _____ | Date _____ |
| Owner Name (Print) _____ | Owner Signature _____ | Date _____ |

By signing below, Broker/Office Manager and Agent affirm that this form has been fully reviewed with the Owner(s) and acknowledge that the Form must be filed in accordance with MIAMI MLS Rules and Regulations. *Note: Both signatures required*

| | | |
|-------------------------------------|---------------------------------------|--------------------|
| Agent Name (Print) _____ | Agent Signature _____ | Agent MLS ID _____ |
| Broker/Office Manager (Print) _____ | Broker/Office Manager Signature _____ | MLS Office _____ |



MLS



Syndication Opt-Out Form

Any MLS participant who lists a property for a seller who has elected not have the property syndicated OR has chosen not to have the property address displayed on the internet must have the seller complete and sign this Form.



700 S. Royal Poinciana Blvd. • Ste. 400
Miami, FL 33166
Main (305) 468-7000
MLS (305) 468-7096
Fax (305) 468-7030
www.miamirealtors.com
mia@miamire.com

MIAMI HQ
Coral Gables
Northwestern Dade
Aventura
West Broward • Sawgrass
Northeast Broward
Southeast Broward
JTHS-MIAMI

Syndication Opt-out Form

Any MLS participant who lists a property for a seller who has elected not have the property syndicated OR has chosen not to have the property address displayed on the internet must have the seller complete and sign this Form.

Full Property Address : _____ (Street) _____ (Apt. Number) _____ (City/State) _____ (Zip)

1. Initial one.

a. _____ I/we have advised my/our broker or sales agent that I/we do not want my/our listed property to be syndicated/ to be displayed on the internet.

b. _____ I/we have advised my/our broker or sales agent that I/we do not want the address of my/our listed property to be displayed on the internet.

2. I/we understand and acknowledge that if I/we have selected Option a., consumers who conduct searches for listings on the Internet will not see information about my listed property and will NOT be transmitted by the MLS to various real estate Internet sites used by consumers to search for properties for sale, such as Realtor.com, Zillow.com, Homes.com and various individual broker-controlled websites that service the area in which the property is located.

| | | |
|---------------------|--------------------------|------------------------------|
| Print Seller Name | Print Listing Agent Name | Listing Agent License Number |
| Signature of Seller | | |
| Date | | |
| Print Seller Name | Listing Agent Signature | Listing Office Name |
| Signature of Seller | | |
| Date | Date | Broker Signature |

If the Seller has chosen either Option a or Option b, this form must be completed, signed and attached to the listing contract **AND the complete listing contract, including this form, must be scanned/emailed to MLS@miamire.com with the subject line: Opt-Out.** Failure to provide this and all required documents within 2 business days is an MLS Rules Violation Subject to \$500 Fine.

The participant shall retain Opt-out Form for at least one (1) year from the date they are signed or one (1) year from the date the listing goes off the market which ever is greater.

Revised 04/20/2020 • © MIAMI Associations of REALTORS®

MIAMI MLS 03.2020

How can I report an Off-MLS Property?

If you believe a property is being publicly marketed and is not listed in the MLS, you can submit documentation and request an MLS Review. MIAMI MLS requires documentation to investigate. Upload a file or image reflecting the public marketing and email to OffMLS@Miamire.com.

This documentation includes at least one of the following:

- Photo of For Sale Sign
- Copy of screen shot showing the link to the site with the property on it
- Copy of Flyer with the listing information
- Email blast solicitation
- Screen shot of listing appearing on a private network
- Screen shot of listing appearing on Social Media

MIAMI MLS has an education-first policy for data integrity and compliance with our Rules and Regulations – our goal is to have accurate data and not to fine. This is how fines will be handled for

Clear Cooperation compliance as well.

An appeal process has and will continue to be available per our Rules & Regulations.

CLEAR COOPERATION (Effective 4/20/2020)

1st Violation: \$2,500 • 2nd Violation: \$5,000 • 3rd Violation: \$7,500 plus MLS Review Panel

- Failure to submit listing to the MLS within one business day after Publicly Marketing the property
Refer to MiamiRealtors.com/ClearCooperation for definition of Public Marketing and FAQs.



MLS



MIAMI has determined its own local policies with regard to implementation procedures, guidelines and compliance.

MiamiRealtors.com/MLS