

**National Association of REALTORS® Clear Cooperation FAQs
(as of April 16, 2020)**

NAR - Q1: Do ALL REALTOR® Association MLSs have to adopt the MLS Clear Cooperation Policy?

NAR - A1: Yes. By establishing a national policy, it is mandatory that all REALTOR® Association MLSs adopt the policy and have the same consistent standard.

NAR - Q2: Can a seller or the listing broker “opt out” of the policy’s obligations?

NAR - A2: 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.

NAR - Q3: What is the meaning of “business day?”

NAR - A3: 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.

NAR - Q4: 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?

NAR - A4: 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.

NAR - Q5: In some markets, listing brokers use exempted 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?

NAR - A5: 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.

NAR - Q6: Is the new policy consistent with Article 3 of the NAR Code of Ethics?

NAR - A6: 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.

NAR - Q7: 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?

NAR - A7: Yes.

NAR - Q8: Does the new policy require changes to the local MLS rules?

NAR - A8: 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) (Additions highlighted in **bold**)

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 one (1) business day once the listing is publicly marketed. See Section 1.01, Clear Cooperation.

NAR - Q9: Why was this policy approved?

NAR - A9: 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 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.

NAR - Q10: Who made the decision that this policy was needed?

NAR - A10: 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.

NAR - Q11: Does Policy Statement 8.0 require listings to be included in an MLS's IDX displays?

NAR - A11: No. While listings that are displayed on the Internet 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 all Internet display. Per MLS rules, participants can work with their listing clients to determine an appropriate marketing plan, taking into account the client's needs and full disclosure of the benefits to market exposure.

NAR - Q12: Does Policy Statement 8.0 prohibit office exclusives?

NAR - A12: 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 listing broker to market a property among the brokers and licensees affiliated with the listing 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.

NAR - Q13: 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?

NAR - A13: 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.

NAR - Q14: Does Policy Statement 8.0 apply to non-active listings?

NAR - A14: 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. MLSs may enact "coming soon" rules providing for delays and restrictions on showings during a "coming soon" status period, ensuring flexibility in participants' listing and marketing abilities, while still meeting the participant's obligations for cooperation.

NAR - Q15: What if the listing isn't ready to be shown? Are "Coming Soon" or "Delayed showing" listings allowed under Policy Statement 8.0?

NAR - A15: The concept of "Coming Soon" and "Delayed Showing" can be achieved within the local MLS. Listings which are truly not yet ready to be shown can be shared with the MLS's brokers and agents to create exposure while the property is being prepared for showing.

MLSs can also add clarity to the coming soon and delayed showing process by defining specific statuses and showing requirements if these listings are to be included in the MLS. The most common implementations do not allow for showings of the listing until its status is changed to active, and any showings of the listing would immediately trigger that status change.

NAR - Q16: Does Policy Statement 8.0 require a broker to turn in every listing to the MLS within 24 hours of signing the listing?

NAR - A16: No. MLSs have different local rules as to listing turn-in times. If a listing is taken and is not yet ready to be marketed/shown, longer timelines for turn in may apply in local markets. If a listing is marketed to the public, however, Policy Statement 8.0's one (1) business day turn-in timeline goes into effect.

NAR - Q17: Has this kind of policy been implemented somewhere already?

NAR - A17: Similar policies have been enacted in some marketplaces. MRED in Illinois has a similar policy in place. The organization has produced a white paper explaining the benefits to the marketplace. Bright MLS on the Eastern seaboard has a similar policy in effect. Northwest 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.

NAR - Q18: How can an MLS address compliance?

NAR - A18: Compliance is up to local determination. The policies in the markets previously discussed usually include an escalating process of warnings and fines. Reporting of non-compliance is often taken care of by the marketplace. When listings are publicly marketed, agents and consumers become aware and can report unsubmitted listings by MLS participants to the MLS.

NAR - Q19: What exclusive listings and property types are applicable under the new MLS Statement 8.0?

NAR - A19: The obligations of Statement 8.0 were 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 that did not include commercial properties, rental properties, and new construction developments with multiple properties (single family homes, condos, etc.) Those property types, and other exclusive listings that require mandatory submission, can be included in the application of Statement 8.0 at local discretion.

NAR - Q20: How will the new policy affect listings not yet available for showing and the calculations of "days on market?"

NAR - A20: These are factors that can be determined locally. Brokers should discuss with their MLSs the desire to submit properties which are not yet ready for showings in the MLS. Brokers and MLSs should consider whether a new listing must immediately become active, whether a temporary "coming soon" or "no showings" status is allowed, and when "Days on Market" will begin in these scenarios.

NAR - Q21: Why was the timeframe within the recommendation updated to 'one business day'?

NAR - A21: The MLS Tech and Emerging Issues Advisory Board held a conference call on October 30, 2019. Based on feedback and concerns over the time enforcement, the timeframe was changed from '24 hours' to 'one business day.'

NAR - Q22: What is the timeline for this Policy?

NAR - A22: The policy is effective from January 1, 2020 with local implementation required by no later than May 1, 2020.

NAR - Q23: Does the new Policy Statement 8.0, Clear Cooperation, require MLSs to reconsider whether listings of vacant land require mandatory or voluntary submission?

NAR - A23: No, the MLS can continue operating under existing local policy, which may provide for voluntary submission of different property types, like land, rentals, and new construction. Business practices in different markets for these property types may vary and only call for voluntary submission. If the listing broker has a choice

to submit a particular exclusive listing to the MLS, the listing broker is not obligated to submit that listing because it is publicly marketed. The new policy on Clear Cooperation only covers exclusive listings of property types that require mandatory submission.

Further, the existing deadline for submitting listing information to the MLS remains intact, unless the property is publicly marketed in which case the property listing information must be submitted to the MLS within the one (1) business day deadline.

Maine Listings Clear Cooperation Policy FAQs (As of June 5, 2020)

Q1: Is it 24 hours from the time you advertised a property on social media that it has to be on the MLS or is it a calendar 24-hour designation?

A1: It's one (1) business day, so if you post something today on social media – you have until 5:00 p.m. the next business day to enter it into the MLS.

Q2: We have signed a listing agreement and have 5 days to put it in MLS. The seller's neighbor hears about it and wants to see it with their broker (outside of our agency). Can we show it?

A2: Yes, it can be shown, however, it triggers the new policy and you now have one (1) business day to submit the listing to the MLS.

Q3: We have signed a listing agreement and have 5 days to put it in MLS. There is a multi-agency broker tour going on in the neighborhood and the seller asks us to participate before it goes on MLS. Can we?

A3: If you participate in the broker tour, this would be considered public advertising which would trigger the new policy and you now have one (1) business day to submit the listing to the MLS.

Q4: What if an agent writes an offer sight unseen?

A4: The listing broker is required to present any and all offers to the seller client as soon as possible.

Q5: Why is "Coming Soon" even necessary?

A5: The Coming Soon/No Show status is intended to provide a method for listing brokers to notify other cooperating brokers of properties that will be made fully available for showing after preparations have been completed. Such preparations could include repairs, painting, staging, new carpets, professional photography, etc.

Q6: Can I schedule a showing on a Coming Soon/No Show listing using ShowingTime?

A6: Yes, you can use ShowingTime to schedule a showing on a Coming Soon/No Show listing, however any dates prior to the Showing Date noted in Flexmls will not be available.

Q7: Can I update a Coming Soon to Active in real time rather than waiting for it to change overnight?

A7: Yes, you can manually change a listing in the Coming Soon/No Show status to Active status. This is done in Flexmls (Change Listing), scroll down to the status section and select Start Showing (Active).

Q8: What happens if after ten (10) business days, a Coming Soon/No Show listing is not ready to go Active, is there the ability to extend beyond the ten (10) business days?

A8: There is no option to extend the Coming Soon/No Show status beyond ten (10) business days. At the end of ten (10) business days, the listing will automatically transition to an Active status. If the sellers are not ready, you will need to edit the listing and withdraw it from the market. Once the sellers are ready, you will edit the listing and change the status from Withdrawn back to Active.

Q9: If we enter the listing as Coming Soon/No Show and then the seller states they need more than ten (10) days to get it ready because their painter cancelled, for example. How do we keep it from going Active?

A9: You cannot prevent the listing from going Active. If the property is not ready, once the listing goes Active, the listing broker will need to edit the listing and change the status to Withdrawn until the listing is ready to go Active again.

Q10: The seller initially told us to put it in Coming Soon for 10 days, then decides to change it to 8 days. Can we update it?

A10: Once you save a listing in the Coming Soon/No Show status, the listing agent cannot edit the Showing Date field. So, if you want to change the date from say, May 20 to May 15, the agent cannot do that. But they can send a request to Maine Listings asking staff to make the change for them. As long as the change complies with the policy, staff can process the change. (An example of non-compliance would be a request to extend the Showing Date from May 20 to June 1 (which would be beyond the maximum ten (10) business days allowance.)

Q11: Can we update the Coming Soon to Active in real time rather than waiting for it to change overnight?

A11: If the listing agent wants to change a Coming Soon/No Show listing to Active before the Showing Date, they can use the Start Showing (Active) status change option on the Edit Listing page. When an agent manually changes the status using this option, the listing becomes an Active listing.

Q12: What happens if an agent sends out an email to brokers in the area which doesn't specifically identify the address of the listing. The email contains a photo and maybe the name of the town. The subject line of the email states "Coming Soon!" Is this a violation of the new policy?

A12: This would trigger the new Clear Cooperation Policy and violate the rule if the listing is not entered within one (1) business day. The rule states, "marketing of a property" and does not specifically require the address to be shared. Rather, simply marketing a subject property itself is the issue. Whether it's photographs, a property description, location, etc., it doesn't need to include an address. It does, however, need to distinguish between marketing a property and marketing brokerage services. So, for example, "4 Bedroom, 2 Bath in a specific neighborhood" would qualify as the marketing of a property, while "I list homes in XYZ neighborhood, call me" would arguably not.

Q13: Does a Coming Soon/No Show listing get syndicated to third-party portals such as Realtor.com and Zillow.com?

A13: Coming Soon/No Show listings do not syndicate to the third-party portals. Once the listing transitioning to the Active status, it will be included in the syndication data feeds. If your client does not want their listing to go to the third-party portals, then you will need to uncheck the appropriate boxes on the Broker Distribution tab in Flexmls.

Q14: If we post a for sale sign and we plan to put the listing in the MLS the next day, either as Active or Coming Soon, is there anything to prohibit us from showing the property in that one day period to a buyer who is represented outside of our agency?

A14: This is a single question that actually has two answers based on the status of the listing. **Active:** if the listing is to be submitted to the MLS in the Active status, there is nothing which prevents you from showing the property within that one day period. Just remember, you will need to submit the listing within one business day because you have publicly marketed the listing by posting the yard sign and the policy aims to ensure that consumers have access to all available properties through a transparent process which promotes Fair Housing and equal opportunity to access the listing information. **Coming Soon/No Show:** if the listing is to be submitted to the MLS in the Coming Soon/No Show status then it cannot be shown. The Showing Date field will provide the date on which showings will start.

Q15: What time does the listing populate into Active status from Coming Soon/No Show status on the go live date/10th day?

A15: The overnight job runs at 2:15 a.m. (Central) so as not to conflict with other jobs such as prospecting and listing expiration that run shortly before that.

Q16: Many licensees have become accustomed to listing a property in the MLS as active but not showing it for several days. Is this now a violation? If it is marked as active, must it be available for showing? Or is this still permitted?

A16: If a listing is Active, you must be able to set appointments for showings. If it cannot be shown, then the listing would be entered in the Coming Soon/No Show status with the expected date to go Active noted in the Showing Date field. An example of this would be the property is listed on Monday with no showings until the Open House on Sunday. The listing would be entered as Coming Soon/No Show with Sunday's date entered in the Showing Date field.

Q17: With a Coming Soon/No Show listing - when can a sign be erected?

A17: A sign can be erected on a Coming Soon/No Show listing at any point in time. Once the sign is erected, you have one (1) business day to submit the listing.

Q18: What does a buyer see online ... Here is a house that fits your needs, but you can't see it?

A18: Coming Soon/No Show listings are available for members of the Maine Listings to see; the listings are also included in IDX data feeds and on MaineListings.com and the status displays as Coming Soon/No Show. Coming Soon/No Show listings are not available through the Flexmls email subscriptions, or on any syndication sites such as Realtor.com or Zillow.com.

Q19: If I have a listing with a grandfathered Waiver of MLS Benefits form – can that listing be publicly marketed?

A19: No, an office exclusive listing cannot be publicly marketed. A waiver form signed prior to the implementation of the Clear Cooperation Policy is grandfathered because Options #1 or #2 did not change. However, the seller does need to be educated on the change in policy and be made aware of the fact that if they signed a Waiver of MLS Benefits form, their property is an office exclusive listing and there is no public marketing allowed.

Q20: Is it allowed to extend the time frame of an existing, grandfathered MLS Waiver of Benefits?

A20: Yes, just have your sellers(s) sign a new Waiver of MLS Benefits form and forward a copy to qualityassurance@mainelistings.com.

Q21: If we have an office exclusive and no public marketing has been done, but the seller has communicated to people that their property is for sale (social media post, tells a co-worker, etc.) and a (public) person finds out that has a broker that is not in our company and wants to show the property, or not show the property but simply present an offer on the property. How do we handle that?

A21: The Clear Cooperation Policy would be triggered as soon as the homeowner shares the office exclusive listing with the public. It's critical that sellers (and agents) understand that no public marketing can occur with an office exclusive listing. Once publicly marketed, the listing must be submitted to the MLS within one (1) business day.

Q22: Based on the previous question, can the broker from the other company actually physically show the office exclusive listing? Or would they need to submit an offer sight unseen?

A22: Because the seller publicly marketed the listing, the listing must be submitted to the MLS within one (1) business day and the other broker could schedule a showing, or submit an offer.

Q23: If we have an office exclusive listing, how do we report the sale?

A23: Based on the option selected on the Waiver of MLS Benefits form, Option #1 allows the listing to be submitted to the MLS on a certain date. Option #2 allows for the listing to be entered after the sale. For Option #2, the office exclusive listing would be submitted to the MLS as a comparable sale.

Q24: During the time we're in a non-submit period (office exclusive), if we do showings, at what point does a showing become public marketing? In other words, can I show it to anyone in my own company? Can I show it to my own clients, or can I show it outside of the agency, as well? And does that start the one day clock?

A24: As you know, office exclusive listings are an important option for sellers concerned about privacy and wide exposure of their property being for sale. With an office exclusive listing, direct promotion of the listing between the brokers and licensees affiliated with the listing brokerage, and a one-to-one discussion between a licensee and their client, is not considered public advertising.

Common examples include divorce situations and celebrity clients. It allows the listing broker to (exclusively) market a property among the brokers and licensees affiliated with the listing brokerage.

A broker tour of an office exclusive listing would mean only the agents affiliated with your office would be allowed to preview the listing. An office exclusive listing is meant to be serviced by your brokerage only. (No public marketing is allowed.) If it is publicly marketed (shown outside of the agency), then the new policy applies, and the listing must be submitted to the MLS within one (1) business day.

Q25: What if a seller, who has signed a Wavier of MLS Benefits form, tells their neighbor they have listed their property and the neighbor calls their agent who works for a different agency and says, I understand my neighbor

listed their property with Agent A and I'd like to see it. Does that mean, if I were to show it to that particular buyer with another agency that we'd have one day to put it on the MLS, even if that's not the seller's wishes?

A25: As soon as the homeowner shares the office exclusive information with the neighbor, it triggers the clear cooperation policy and the listing must be submitted to the MLS within one (1) business day.

Q26: If you have an office exclusive listing and you're a member of a franchise, can the office exclusive listing be shared with other agents within the franchise?

A26: No, an office exclusive listing may only be shared with agents affiliated with the listing brokerage.

Q27: If we have an office exclusive listing, can we post it on our own website?

A27: No, you cannot publicly market the listing and that includes the listing broker's website.

Q28: What's the reasoning behind an office exclusive listing? It's almost like it's MLS or nothing. I'm just thinking of a situation that one of my brokers is currently in and she has a client that does not want her listing on the MLS. However, the seller wants it on our website as she was thinking that it would be to her advantage to advertise it on the website to get out-of-state buyers versus in-state buyers. I just want to make sure I understand this correctly - it's not to be advertised on websites, period?

A28: An office exclusive listing is typically requested because somebody is concerned about privacy and they don't want anyone to know (publicly) that the property is for sale.

It's really important for the seller to read the Waiver of MLS Benefits form to completely understand why they should consider placing their property in the MLS. It clearly explains the benefits - instead of hiring just one agency to market their listing, they are hiring an entire army of real estate professionals which affords a greater chance of selling their property, which is ultimately what they have asked you to do.

Q29: My inquiry has to do with properties that are not under Exclusive Listing Agreement. I believe the popular name for those are "pocket listings". Do the new rules for 8.0 apply to pocket listings as well? Specifically, are we prohibited from advertising pocket listings on social media as a result of the new rule?

A29: A pocket listing is another term for office exclusive – which requires a Waiver of MLS Benefits form be signed by the seller, a copy provided to Maine Listings, and the new clear cooperation policy would apply. If you are asking about a property that is not listed (no Exclusive Right to Sell or Exclusive Agency listing agreement has been signed), then the new policy does not apply as the property is not listed. Remember, the Maine Real Estate Commission does have rules regarding advertising an unlisted property; as does the REALTORS' Code of Ethics.

Q30: Broker A has a listing in which the seller does not want the information disseminated in the MLS. Seller signs a Waiver of MLS Benefits Form (Office Exclusive). The seller then tells her co-worker that she has listed her house with Broker A. Her co-worker calls Broker A and says he wants to see his co-worker's house, but he has his own broker (Broker B) and he wants to be represented by Broker B. Broker B is now aware of the listing which is an office exclusive – not with his agency. Broker B calls to set up the showing. Is it a violation of Clear Cooperation Policy if Broker A did not publicly market the listing?

A30: The Clear Cooperation Policy would be triggered once the homeowner shares the office exclusive listing information with the neighbor.

Q31: Using the Exclusive Right to Sell Listing Agreement, if a client does not wish the property to be advertised in the MLS and checks NO on the following question, are we still required to post the listing in MLS?

Exclusive Right to Sell Listing Agreement Question - To authorize publication of property and applicable disclosure attachments in the MLS and use of information for marketing, appraisal and statistical purposes.

A31: If the seller does not want their listing disseminated in the MLS, the participant may then take the listing as an office exclusive. This requires a Waiver of MLS Benefits form be signed by the seller(s) and a copy provided to Maine Listings. Please be sure to educate your seller that an office exclusive listing may not be publicly marketed as noted on the Waiver of MLS Benefits form.

Q32: Can a listing agent promote an office exclusive listing to his or her buyer client? Or is this a violation?

A32: It is not a violation for the listing broker to discuss an office exclusive listing with the agents affiliated with his/her office, nor is it a violation for the listing broker to have a one-on-one discussion with a buyer client.

Q33: Say we have a pocket listing, and we send an email with some photos of it to a buyer, or even three buyers individually, does this constitute "public marketing"?

A33: This would not be considered public marketing. The listing broker is allowed to provide listing information to a buyer client (one-on-one). So, if you have three buyer clients, emails would need to be sent to each one individually (no email blasts allowed).

Q34: Maine law requires that licensees obey a client's lawful instructions. Isn't my client's request to withhold a listing from the MLS a lawful instruction?

A34: Yes, the request from a seller client to withhold a listing from the MLS is a lawful instruction that a participant must follow. The participant should inform the client that while their request will be honored, as a result the participant will not be able to market their listing to the public, pursuant to the rules the participant is bound by as a member of the MLS. If the participant feels that this limitation would make them unable to provide the seller an adequate level of service, the participant should consider not accepting the listing.

Q35: If a property goes to withdrawn, is it truly "No showings" or can it revert back to being known as an agency exclusive? Or, what would that look like if a Seller wants it to go back to being agency exclusive (cease all public marketing of course).

A35: If the listing is an office exclusive, it would not be entered in the MLS. Keep in mind, if the seller signed a Waiver of MLS Benefits form and chose Option #1 – noting the date to submit the listing to the MLS, if that date changes, please be sure to have the seller sign a new waiver form and submit a copy to Maine Listings. And, remember ... there is no public marketing allowed for an office exclusive listing.

Q36: We have a listing and the sellers don't want it to go in the MLS, what is the form they need to fill out?

A36: The sellers must complete and sign the Waiver of MLS Benefits form (office exclusive). A copy of the form must be submitted to Maine Listings (email QualityAssurance@MaineListings.com or fax: 207-780-1367) within five (5) business days after all necessary signatures are obtained on a listing agreement. The form is available in the MAR or Maine Listings zipForm libraries, the private side of MaineListings.com (under Documents & Forms → Data Input), and it's also available on the Flexmls Intranet.

Q37: How do communications, such as letters, emails, or speaking to abutters or neighbors, fall within the public marketing definition?

A37: As soon as you let the public know about the property, whether by mail, email or verbally, that's considered public marketing.

Q38: Do back-dated Facebook posts featuring properties not listed on the MLS need to be removed?

A38: If the property is not listed in the MLS (office exclusive and a Waiver of Benefits form has been submitted to the MLS), no public marketing is allowed and the back-dated Facebook posts must be removed.

Q39: Can a property be posted on social media if it is not listed?

A39: If a property is not listed – MLS rules do not apply. However, you should refer to state license law, in regard to advertising and the REALTOR's Code of Ethics.

Q40: If we have an Active listing and need to withdraw it for a couple of weeks per the seller's request, does anything change with that?

A40: No, you can still withdraw an Active listing at any time per the seller's request.

Q41: How does this new rule apply to withdrawn listings? Sometimes we might have a withdrawn listing that is perfect for our own buyer client, or sometimes a licensee from another agency might even ask to show it. Would showing it be a violation?

A41: Per the Maine Listings Rules and Regulations, the definition for the Withdrawn status is as follows.

Withdrawn

Listings of properties in which the seller has requested the participant to:

- temporarily suspend the marketing of the property, AND
- not set appointments for showings, while the listing agreement between the participants and the seller remains in effect.

If the listing is to be shown or publicly marketed, it needs to be placed in the Active status.

Q42: Do Days on Market continue to accumulate when a listing is in the Withdrawn status?

A42: Days on Market do NOT accrue for a listing in an “off-market” status and this includes the Withdrawn status.

Q43: Does this new policy apply to commercial listings as well as residential listings?

A43: Commercial listings are exempt from the new Clear Cooperation policy.

Q44: We represent some larger new construction condominium projects and we usually put a representative sample of the units into the MLS to avoid flooding the MLS with multiple identical listings. What is the new policy on that? Do we have to enter every listing?

A44: Section 1.2 of the Maine Listings Rules and Regulations provides guidance for exempt listings. Exempted listings include new construction and existing developments (with multiple properties), and subdivisions (with multiple lots) and commercial listings. Any new construction and existing developments (with multiple properties), land subdivisions (with multiple lots), and commercial listings not entered in the MLS will require a Waiver of MLS Benefits form be signed by the seller and a copy provided to Maine Listings.

Q45: How will the new policy be policed and what are the ramifications for brokers and agents?

A45: The new policy will be self-policed – it’s a review by your peers. Anything that is brought to the attention of Maine Listings will be investigated and followed up on by a staff person. Any allegation submitted is considered confidential and anonymous.

As for discipline, Appendix A of the Maine Listings Rules and Regulations provides a list of citable violations and the associated penalties. It is considered a **Severe Violation** of Maine Listings policy for a violation of the Clear Cooperation Policy. From now until June 30, 2020, we will provide an educational phase and no fines will be assessed. If a violation is identified during the educational phase, a quality assurance notice will be issued to the Authorized Representative and the agent bringing their attention to the violation of the new policy.

Beginning July 1, discipline for the new policy will go into effect. The first offense will incur a \$500 fine. The second offense a \$2,500 fine, and a third offense results in a mandatory hearing before the Policy Review Committee, who will have the authority to issue the maximum allowable penalty under NAR guidelines (a maximum of \$15,000) and possible further sanctions which might include suspension or expulsion from the service.

Q46: Why was this policy implemented and who developed the fine schedule?

A46: This has been an ongoing issue for many years, and Brokers and MLSs from across the country asked the National Association of REALTORS (NAR) to consider policy that would 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. It was ultimately overwhelmingly approved by NAR’s Board of Directors. The Clear Cooperation Policy aims to ensure that consumers have equal access to all available properties through a transparent process which promotes Fair Housing. And, it bolsters cooperation and advances the positive and pro-competitive impacts that cooperation fosters for consumers.

As for the fine schedule, after a thorough review of the policy and much discussion of the potential impacts for violations, the fine schedule was drafted and approved by the Maine Listings Board of Directors.

Q47: Will these new rules be clearly written and posted?

A47: All of the information regarding the new policy is posted on the private side of MaineListings.com. To access the materials, go to MaineListings.com and scroll down to Member Login. Login with your 6-digit User ID and Password. On the next screen (Dashboard), click the word Main or the Maine Listings logo (on the left). Click on the Forms & Documents tab at the top and the next screen (Governance) will display the Clear Cooperation Policy section.