

## SUMMARY OF MLS RULE CHANGES EFFECTIVE MARCH 1, 2022

***NAR at its November Meetings Board of Directors passed several motions creating new MLS policies or revising prior MLS policy statements. These policy changes created new mandates for MLSs owned by REALTOR® Association. Following are those new mandates to be added to Bay East's MLS Rules and Regulations with an effective date of March 1, 2022.***

***NAR's Rational: one data feed will create efficiencies for Participants and their designees when authorized to use MLS data for multiple purposes.***

**11.14 Data Feed Available to Participants.** The Service must offer a Participant a single data feed in accordance with a Participant's licensed authorized uses. At the request of a Participant, the Service must provide the single data feed for that Participant's licensed uses to that Participant's designee. The designee may use the single data feed only to facilitate that Participant's licensed uses on behalf of that Participant.

***NAR's Rational: today's brokerage community utilizes many productivity tools, and proprietary reports and resources that call for enhanced access to and use of MLS data. This new policy statement was designed to empower Participants with the information they need to better serve their clients and customers.***

**11.15 Brokerage Back Office Data Feeds.** The Service must provide to Participants the Brokerage Back Office Data for use subject to the terms below:

“Brokerage Back Office Data” means all real property listing and roster information in the MLS database, including all listings of all Participants, but excludes (i) MLS only fields (those fields only visible to MLS staff and the listing Participant), and (ii) fields and content to which MLS does not have a sufficient license for use in the Brokerage Back Office Feed.

Participant and Subscribers affiliated with the Participant can use the Brokerage Back Office Feed data for the following purposes:

- a) Brokerage management systems that only expose Brokerage Back Office Data to the Participant and Subscribers affiliated with the Participant.
- b) Customer relationship management (CRM) and transaction management tools that only expose the Brokerage Back Office Data to the Participant, Subscribers affiliated with the Participant, and their bona fide clients as established under state law.
- c) Agent and brokerage productivity and ranking tools and reports that only exposes Brokerage Back Office Data to the Participant and Subscribers affiliated with the Participant.
- d) Marketplace statistical analysis and reports in conformance with NAR MLS Policy Statement 7.80, which allows for certain public distribution.

Brokerage Back Office Data use may only be made by the Participant and any Subscriber affiliated with the Participant, except that at the request of a Participant, the MLS must provide Brokerage Back Office Data to that Participant's designee. The designee may use the Brokerage Back Office Data only to facilitate the Brokerage Back Office Data use on behalf of that Participant and its affiliated Subscribers.

There is no option for Participants to opt out their listings from the Brokerage Back Office Data feed use as defined.

The Service may impose reasonable licensing provisions and fees related to a Participant's license to use the Brokerage Back Office Data. The Service may require the Participant's designee to sign the same or a separate and different license agreement from what is signed by the Participant.

***NAR's Rational: disclosure of the offer of compensation to buyer agents (including non-agency relationships defined by state law) will reinforce transparency for the clients and consumers working with MLS Participants and Subscribers in a real estate transaction.***

**11.16 Listing Broker's Offer of Compensation.** The Service is required to include the listing broker's offer of compensation for each active listing displayed on its consumer-facing website(s) and in MLS data feeds provided to Participants and Subscribers. Additionally, the Service shall permit MLS Participants or Subscribers to share the listing broker's offer of compensation for each active listing through IDX and VOW displays and through any other form or format provided to clients and consumers. The information about the offer of compensation will be accompanied by a disclaimer stating that the offer is made only to Participants of the MLS where the listing is filed.

***NAR's Rational: while REALTORS® have always been required to advertise their services accurately and truthfully, and many REALTOR® services have no cost to the recipient, this change creates a bright line rule on the use of the word "free" that is easy to follow and enforce. These benefits outweigh the fact that this bright line may result in REALTORS® being unable to use the word "free" for some services they provide at no cost to the recipient.***

**12.10 False or Misleading Advertising and Representations; True Picture Standard of**

**Conduct.** Participants and subscribers may not engage in false or misleading advertising, including, but not limited to, advertisements or representations regarding the participant's or subscriber's relationship to the service, about the service itself, or about any property listed with the service. **Participants and Subscribers may not represent that their brokerage services to a client or customer are free or available at no cost to their clients, unless the Participant or Subscriber will receive no financial compensation from any source for those services.**

MLS participants and subscribers shall present a true picture in their advertising and representations to the public, including Internet content, images and the URLs and domain names they use, and participants and subscribers may not:

- a) engage in deceptive or unauthorized framing of real estate brokerage websites;
- b) manipulate (e.g., presenting content developed by others) listing and other content in any way that produces a deceptive or misleading result;
- c) deceptively use metatags, keywords or other devices/methods to direct, drive or divert Internet traffic;
- d) present content developed by others without either attribution or without permission; or
- e) otherwise mislead consumers, including use of misleading images.

***NAR's Rational: these changes reflect the recent developments in real estate brokerage services, evolving broker business models, and how online marketing and searching of listings have evolved.***

**12.14 Display.** Subject to Sections 12.15, 12.16 and 12.19, broker participants and real estate subscribers shall be permitted to display the MLS compilation in either electronic or printed format to specifically identified and bonafide prospective purchasers only in conjunction with their ordinary business activities of attempting to locate ready, willing and able buyers for the properties described in said MLS compilation. Broker participants and real estate subscribers shall be permitted to display the MLS compilation in either electronic or printed format to specifically identified and bonafide sellers or prospective sellers only in conjunction with their ordinary business activities in listing properties. **Broker Participants and R.E. Subscribers may not filter out or restrict MLS listings that are searchable by and displayed to consumers based on the level of compensation offered to the cooperating broker or the name of the brokerage or agent.** Appraiser participants and appraiser subscribers shall be permitted to display the MLS compilation to the person requesting the appraisal only in conjunction with their ordinary business activities of producing a written appraisal. Such displays under this section shall be only in the immediate presence of the MLS participant or subscriber.

***NAR's Rational: listing broker attribution with contact information could provide a more accurate representation to the public about the listing and improve the public's ability to seek additional property details.***

**12.16 Use of Listing Information on Internet.** [Also known as Internet Data Exchange (“IDX”)] “Internet Data Exchange” (“IDX”) is means by which listing brokers permit limited electronic display and delivery of their Active, Pending and sold listing data, in accordance with the IDX rules set forth herein, by other participating Broker Participants and R.E. Subscribers via the following authorized mediums under said Broker Participants and R.E. Subscribers control: websites, mobile apps and audio devices. As used throughout this policy, “display” includes “delivery” of such listings.

(e) **Listing Attribution.** All IDX listing displays shall identify the name of the listing firm, **and the email or phone number provided by the listing Participant**, and the name of the listing agent in a manner designed to easily identify such listing firm or agent. Such identification shall be in a reasonably prominent location and provide clear, conspicuous written or verbal identification of the name of the listing firm and listing agent, **and the email or phone number provided by the listing Participant**. Displays of minimum information (e.g. a one-line or thumbnail search result, text messages, “tweets”, etc. of two hundred (200) characters or less) are exempt from this requirement but only when linked directly to a display that includes all required disclosures. Audio delivery of listing content is exempt from this disclosure requirement only when all required disclosures are subsequently delivered electronically to the registered consumer performing the property search or linked to through the device’s application.

**Section 12.19.18:** A Participant shall cause any listing that is displayed on his or her VOW to identify the name of the listing firm and the listing broker or agent, **and the email or phone number provided by the listing Participant**, in a readily visible color, in a reasonably prominent location, and in typeface no smaller than the median typeface used in the display of listing data.

***The following was passed by C.A.R. and added to the Model Rules. Section 7.5 was corrected to clarify Broker Participants are still required to submit listing to the MLS within 2 days and Section 7.15 to correct the California Probate Code number.***

**7.5 Mandatory Submission.** Within 1 business day of marketing or advertising a property to the public **or within two (2) days after all necessary signatures of the seller(s) have been obtained on the listing or at the beginning date of the listing as specified in the contract, whichever is later**, on any exclusive right to sell or seller reserved listing agreement for the sale of one to four unit residential property and vacant lots located within the service area of the MLS, Broker Participants must input the listing to the service for cooperation with other Participants. Public marketing or advertising includes, but is not limited to, conveying or displaying any information about the property or its availability for sale through or on any: windows, signs, public facing websites, social media, brokerage or franchise operated websites (including IDX and VOW), digital communications marketing (ex: email, text or phone blasts, social media messaging), multi-brokerage or franchise listing sharing networks, flyers or written material or on any applications available to the public or through conducting an open house. The public would include anyone outside the broker(s) and agent(s) licensed within a single listing brokerage and their clients, as further described in Section 7.6) Only those listings that are within the service area of the MLS must be input. Open listings, rental listings or listings of property located outside the MLS's service area (see Section 7.7) are not required by the service but may be input at the Broker Participant’s option.

**7.15 Estate Sale, Probate and Bankruptcy Listings.** Compensation offered through the MLS to buyer brokers on estate sale, probate or bankruptcy listings is for the amount published therein as long as the buyer broker produces the contract which is ultimately successful and confirmed by the court, if court confirmation is required. In the event the contract produced by the buyer broker is overbid in court and the overbid contract is confirmed, the original buyer broker shall receive the amount of compensation specified as "unconfirmed buyer

broker's compensation" or "u.b.b." in the property data profile sheet and on the MLS. For estate sale or probate listings, the compensation offered through the service under these rules and this section shall be considered an agreement as referred to in California Probate Code Section ~~10165~~ 10168 and will therefore supersede any commission splits provided by statute when there is no agreement. This section contemplates that estate sale, probate and bankruptcy judges have broad discretion and therefore are not intended as a guarantee of a specific result as to commissions in every probate or bankruptcy sale.