

Looking Ahead: Understanding & Navigating Upcoming Practice Changes

June 2024

WHAT'S INSIDE?

As the real estate industry adapts to coming changes following NAR's recent settlement agreement, we want to prepare you for a smooth transition and arm you with the tools you need to speak to consumers about the new landscape. In this presentation we cover:

- **A settlement overview**, reviewing what the changes are and implementation details.
- **Understanding the impact**, including important considerations as the industry adapts.
- **Talking to consumers about the coming changes**, giving you a guide on how to help them understand what the practice changes mean for them and their residential transactions.

SETTLEMENT OVERVIEW

BACKGROUND

- On March 15, 2024, NAR announced a proposed settlement agreement that would end litigation of claims against NAR, all state/territorial and local associations, most MLSs, almost all members, and most of their brokerages, brought on behalf of home sellers related to broker commissions.
- The court granted preliminary approval on April 24, 2024. But the settlement is subject to final court approval. A hearing on final approval is scheduled for November 26, 2024.
- From the beginning of this litigation, NAR had three goals:
 - Secure a release of liability for as many members, associations, and MLSs as possible;
 - Protect the choices consumers have regarding real estate services and compensation; and
 - Continue to promote the American dream of home ownership

VIDEO SNAPSHOT: SETTLEMENT EXPLAINED



Litigation Update from NAR President Kevin Sears and CLO
Katie Johnson

CORE ASPECTS OF THE SETTLEMENT

1

Release of liability

2

Offers of Compensation prohibited on MLS

3

Written buyer agreements required

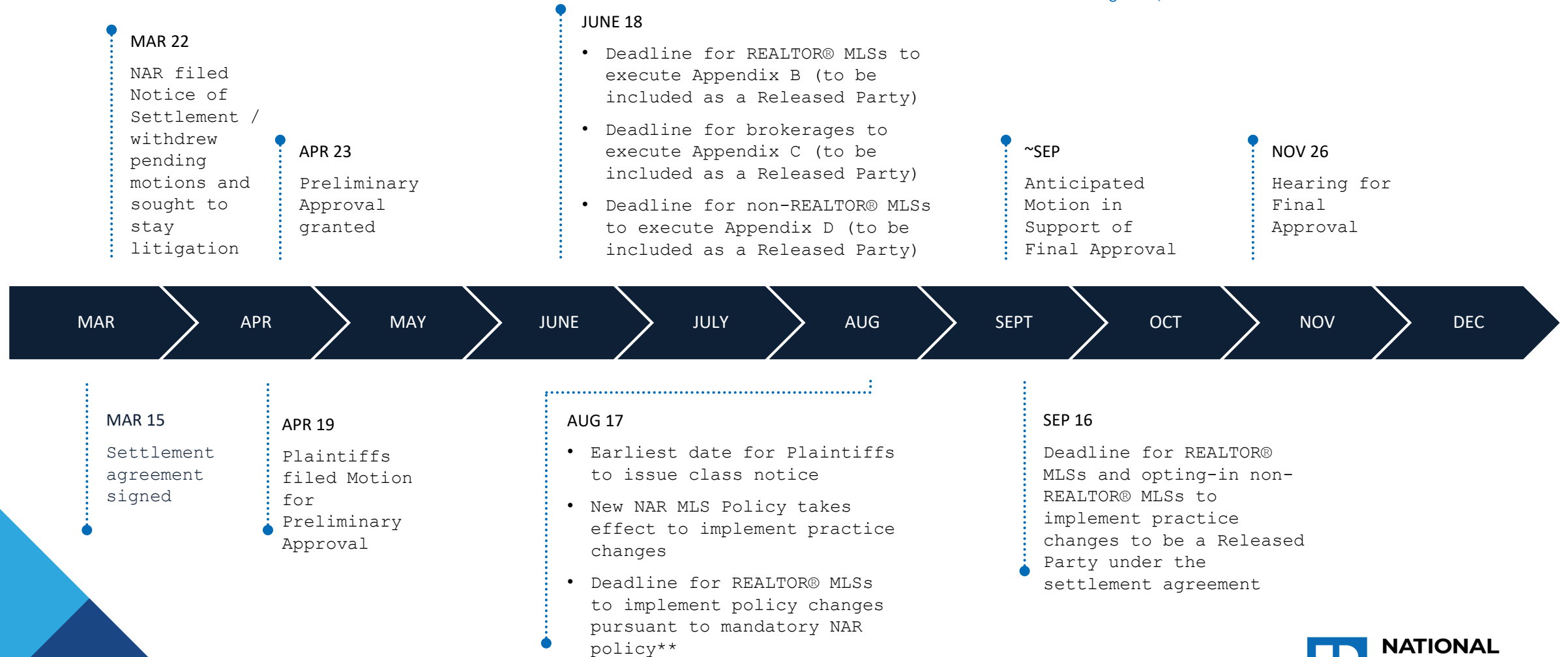
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NAR continues to deny any wrongdoing

NAR SETTLEMENT TIMELINE*

*As of June 24, 2024. Please refer to the settlement agreement for detailed information on deadlines.

**NAR encourages all MLSs to implement the practice changes by August 17, 2024.

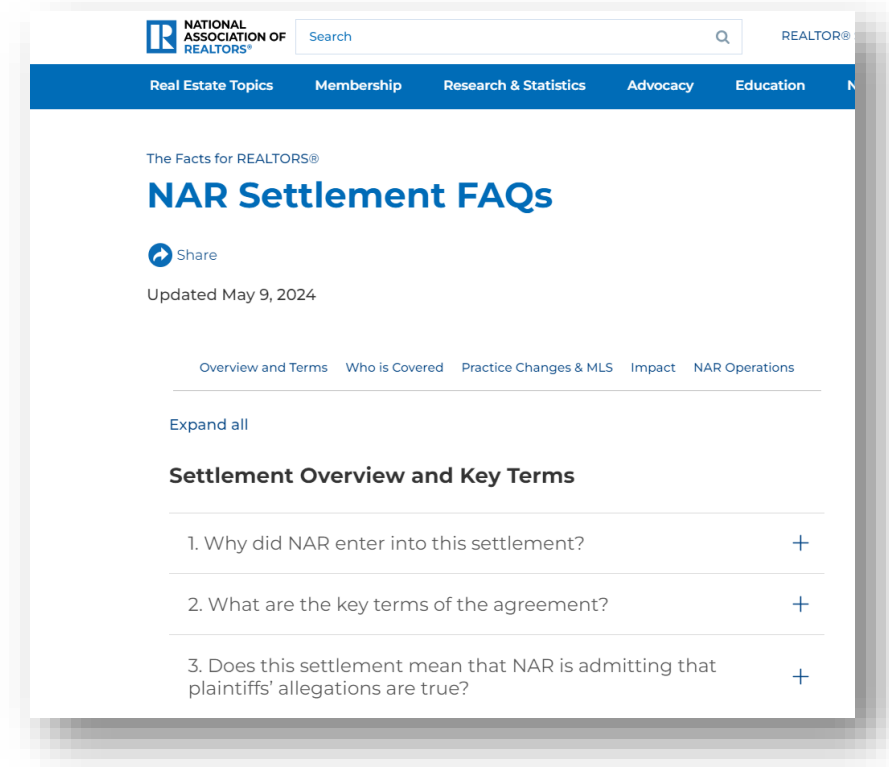


SETTLEMENT RESOURCES

Settlement-related resources for NAR members are available at facts.realtor.

Available resources include:

- Full settlement agreement language
- Settlement overview
- Settlement FAQs
- Summary of MLS Policy Changes
- Explainer videos
- Timeline for key milestones
- Written buyer agreement 101 guide
- Opt-in agreement forms and instructions



UNDERSTANDING THE IMPACT

CONSUMER CHOICE

The settlement preserves consumer choice in the home buying and selling process:

- Cooperative compensation, or the ability of listing agents to compensate agents representing buyers, is prohibited on-MLS, but preserved as an option off-MLS based on negotiation between consumers and real estate professionals.
- Buyers and sellers will continue to have the flexibility to negotiate the commissions and fees that work for them and their transaction.
- Written buyer agreements will clearly outline the services buyers will receive, and how much they will cost.

PRESERVING ACCESS TO HOMEOWNERSHIP

A key priority of the settlement is to ensure that offers of compensation remain an option off-MLS because they are a critical tool to ensure the American Dream of homeownership remains accessible to all, including first-time buyers, low-income buyers, and Veterans.

- Fannie Mae and Freddie Mac have both confirmed that **buyers whose agents are compensated by the seller will continue to have access to financing under the agencies.**
- The Department of Veterans Affairs recently announced that it has temporarily lifted its ban on buyers paying for real estate agent representation. Veteran buyers now have more options, ensuring they can have professional access to representation in their home buying process. The VA's policy takes effect on August 10.

NAR SUPPORTS FAIR HOUSING

- Offers of compensation are just one part of ensuring fair housing
- REALTORS® also must ensure that while we are negotiating with each consumer, we are not treating them differently because of their race, sex, national origin, or other protected characteristic. The settlement does not change this.
- When it comes to the key components of the settlement:
 - As REALTORS® present buyer agreements, we must ensure that we are opening the conversation in the same way with every buyer.
 - As before the settlement, it is the seller's decision whether to authorize offers of compensation to buyer brokers, but it is illegal to refuse to authorize compensation, or to offer different compensation, because of the buyer, or the buyer's agent's national origin, gender, race, or other protected characteristic.
- **REALTORS® have an obligation to follow the Code of Ethics and the law.**

BUYER AGREEMENTS

NAR has long encouraged use of Buyer Agreements because they clearly outline the services to be provided and account for choice and optionality the buyer and agent have when negotiating the terms of their relationship.

Video Snapshot: Buyer Agreements Highlight Value



TALKING TO CONSUMERS ABOUT COMING CHANGES

REALTORS® play a pivotal role in guiding and supporting home buyers and sellers as we adapt to the changing landscape.

The following slides are intended to serve as a guide for conversations with consumers.

ALWAYS COMMUNICATE YOUR VALUE

We know the value agents who are REALTORS® bring to real estate transactions, and need to continue clearly articulating that value to consumers.

When talking to consumers, focus on what matters to them most, such as:

- Reducing stress in a highly complicated and high stakes transaction, likely one of the biggest of their lives.
- Serving as a trusted advisor through the transaction and demystifying the home buying or selling process.
- Using your extensive experience to navigate difficult negotiations, write the best offer possible, set the right price for a listing, and help consumers avoid common mistakes—all to ultimately help successfully close a transaction, saving consumers money and time.

EXPLAIN WHAT TO EXPECT IN PLAIN LANGUAGE

Offers of Compensation

- First and foremost, a REALTOR®'s duty under the REALTOR® Code of Ethics has been and continues to be to have open and honest conversations with consumers throughout the home buying or selling process.
- As before the settlement, REALTORS® must explain compensation is fully negotiable, and offers of compensation remain an option as a matter of negotiation between the real estate professional and the consumer.
- When listing brokers make offers of compensation, under the settlement there are changes to where they may communicate those offers.
- Offers of compensation are no longer allowed on Multiple Listing Services (MLSs)—local marketplaces used by both buyer brokers and listing brokers to share information about home inventory.
- However, listing brokers can still make offers of compensation off-MLS, and sellers can still offer buyer concessions on an MLS (for example, concessions for buyer closing costs).

EXPLAIN WHAT TO EXPECT IN PLAIN LANGUAGE

Written Buyer Agreements

- You will need to sign a written agreement with your agent before touring a home so you understand exactly what services and value will be provided, and for how much.
- Written agreements are required for both in-person and live virtual home tours.
- You do not need a written agreement if you are just speaking to an agent at an open house or asking them about their services.
- Agent compensation for home buyers continues to be fully negotiable.
- When finding an agent to work with, ask questions about compensation and these written agreements.
- Several states already have laws requiring buyer agreements – check your state laws on buyer agreements as you search for an agent.
- **Note:** MLS Participants and buyers are not required to enter into any particular relationship, and will still be able to enter into any type of professional relationship permitted by state law.

Please direct consumers to facts.realtor for more information.

A note to our members

NAR is here to support you through this transition.

The Accredited Buyer's Representative course (or ABR course) is available to members at no cost in 2024. This program is typically valued at \$295. Learn more at [become.abr.realtor](https://www.nar.realtor/become.abr.realtor).