

Understanding & Navigating Recent Practice Changes

A Guide for Real Estate Professionals

Summer 2024

More info at facts.realtor

WHAT'S INSIDE?

As the real estate industry adapts to changes following NAR's settlement agreement, we want to prepare you for a smooth transition and give you the necessary tools to speak to consumers about the new landscape. This presentation includes:

- **A review of the settlement**, touching on what the changes are and must know details on the implementation.
- **How to understand the impact**, including important considerations as the industry adjusts.
- **How to talk to consumers about the changes**, giving you a guide on how to help them understand what the practice changes mean for them and their residential transactions.

SETTLEMENT OVERVIEW

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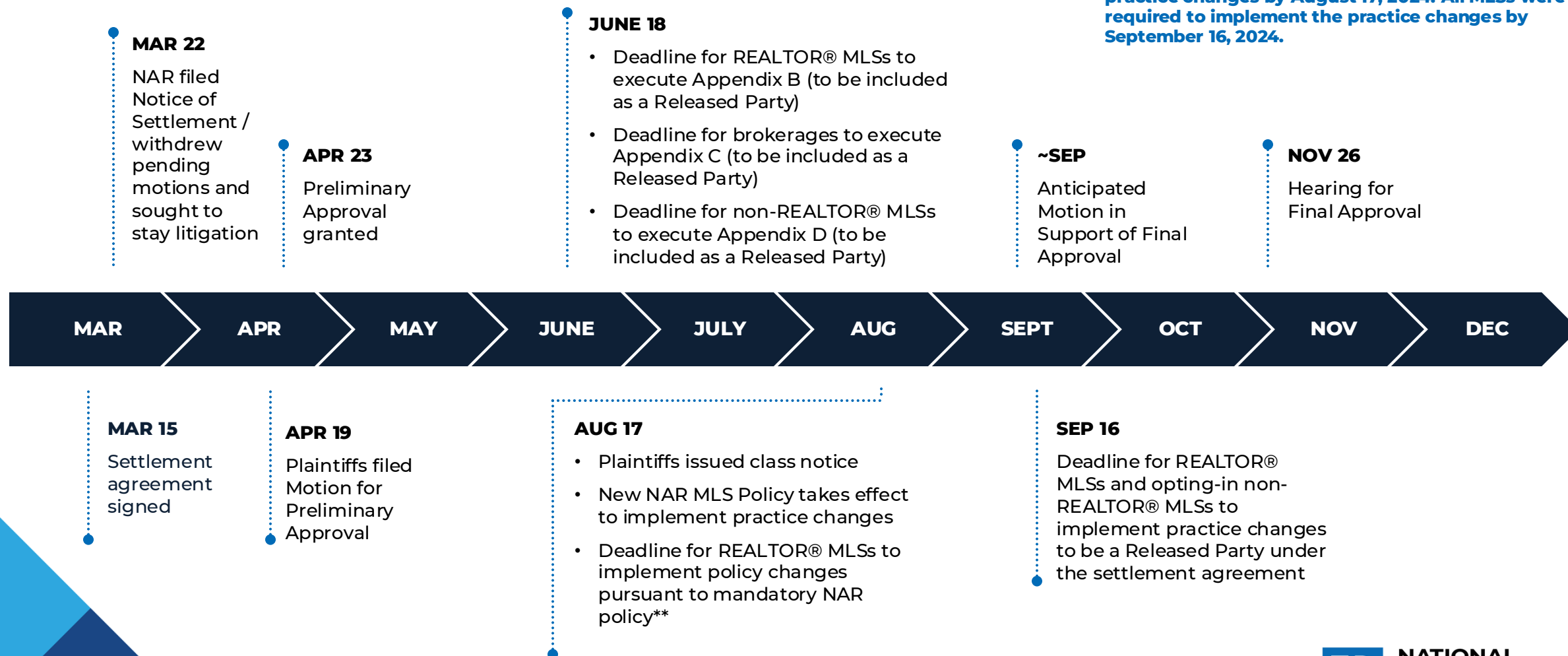


Litigation Update from NAR President Kevin Sears and former CLO Katie Johnson

NAR SETTLEMENT TIMELINE*

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

**NAR encouraged all MLSs to implement the practice changes by August 17, 2024. All MLSs were required to implement the practice changes by September 16, 2024.



RESOURCES

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

- Settlement and practice change summaries
- FAQs
- Explainer videos
- Written buyer agreement 101 guide
- Homebuyer and home seller guides

See also from REALTOR® Magazine:

- [Working with appraisers after August 17](#)



Written Buyer Agreements 101

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Written buyer agreements benefit consumers because they clearly and transparently outline the services an MLS Participant will provide and how they will be compensated.

Homebuyers: Here's What the NAR Settlement Means for You

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Buying a home is a complex process to undertake. Agents are ready to help you navigate this process and work best for you. The settlement will benefit homebuyers.

Here is what the settlement means for homebuyers:

Home Sellers: Here's What the NAR Settlement Means for You

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As a home seller, you have a wide range of choices when it comes to listing your home. Agents who are REALTORS® are a trusted source of advice and stand ready to help you navigate this complex process and make the choices that work best for you. NAR's recent settlement has led to several changes related to broker commissions that benefit sellers, and we wanted to clearly lay them out for you.

Here is what the settlement means for home sellers:

NAR Settlement FAQs

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Updated July 8, 2024

[Overview & Terms](#) [Who is Covered](#) [Practice Changes & MLS](#) [Impact on Existing Transactions](#) [NAR Updates](#)

Note: New or revised FAQs are noted with the date added or updated.
Expand all

UNDERSTANDING THE IMPACT

CONSUMER CHOICE

The practice changes focus on empowering consumer choice in the home buying and selling process:

- Compensation remains fully negotiable.
- Offers of compensation are prohibited on-MLS but are preserved as an option off-MLS based on negotiation between consumers and real estate professionals.
- Written buyer agreements will clearly outline the services buyers will receive, and how much they will cost.
- The settlement empowers buyers and brokers to negotiate and agree to services and compensation that work for them.
- Real estate professionals should work with consumers to make sure they fully understand their options, while continuing to seek fair compensation for their services.

PRESERVING ACCESS TO HOMEOWNERSHIP

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

- Fannie Mae and Freddie Mac have both [confirmed](#) that buyers whose agents are compensated by the seller will [continue to have access](#) to financing through 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 took effect on August 10.
- Buyers can choose to compensate the buyer broker directly or seek compensation from the listing broker or seller.

ENSURING 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.
 - 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.
 - Implicit bias can influence behavior and lead to fair housing and Code of Ethics violations. Inform your clients about compliance with fair housing laws and share resources like "[What Everyone Should Know about Equal Opportunity in Housing.](#)"
- **REALTORS® have an obligation to follow the Code of Ethics and the law.**

TRANSPARENCY THROUGH BUYER AGREEMENTS

Buyer agreements 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. The written agreement must include:

1. A specific and conspicuous disclosure of the amount or rate of compensation the Participant will receive or how this amount will be determined, to the extent that the Participant will receive compensation from any source.
2. The amount of compensation in a manner that is objectively ascertainable and not open-ended.
3. A term that prohibits the Participant from receiving compensation for brokerage services from any source that exceeds the amount or rate agreed to in the agreement with the buyer; and
4. A conspicuous statement that broker fees and commissions are not set by law and are fully negotiable.

Video: Buyer Agreements Highlight Value



TALKING TO CONSUMERS ABOUT THE PRACTICE CHANGES

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

ALWAYS COMMUNICATE YOUR VALUE

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.

You have a duty under the REALTOR® Code of Ethics to have open and honest conversations with consumers throughout the home buying or selling process.

EXPLAIN WHAT TO EXPECT IN PLAIN LANGUAGE

FOR BUYERS

- Explain that they will sign a written agreement with their agent before touring a home, whether virtually or in-person.
- Note that several states already have laws requiring buyer agreements and they should check their state laws.
- Explain that they do not need a written agreement if they are just speaking to an agent at an open house or asking them about their services.
- Underscore that before signing an agreement, they should ensure it reflects the terms they negotiated with their agent and that they understand exactly what services and value will be provided, and for how much.
- Underscore that agent compensation for home buyers continues to be fully negotiable and is not set by law.
- Detail the requirements of written buyer agreements (as detailed on slide 11) and answer their questions.
- Note that the home seller may agree to offer compensation to their agent, but the offer cannot be shared on an MLS.
- Ensure they know these practice changes went into effect **August 17**.
- As always, emphasize that buyers have a right to expect that housing will be available without discrimination or other limitations based on race, color, religion, sex, disability, familial status, or national origin.
- **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.*

EXPLAIN WHAT TO EXPECT IN PLAIN LANGUAGE

FOR SELLERS

- Explain to sellers that they still have the choice of offering compensation to buyer brokers and that it may be in the sellers' best interest to pay for buyers' commissions. Doing so attracts more buyers to their property, just like setting an accurate list price.
- Underscore that agents must conspicuously disclose to sellers and obtain their approval for any payment or offer of payment that a listing broker will make to another broker acting for buyers.
- Note that this disclosure must be made in writing in advance of any payment or agreement to pay another broker acting for buyers and must specify the amount or rate of such payment.
- Explain that if they choose to approve an offer of compensation, it cannot be included on an MLS.
- Describe to sellers how agents can advertise listings off of MLS platforms such as social media, flyers, and websites.
- Inform them they can still offer buyer concessions on an MLS (for example, concessions for buyer closing costs).
- Ensure they know these settlement practice changes went into effect **August 17**.
- As always, note that home sellers are required by law to do business with prospective buyers without regard to their race, color, religion, sex, disability, familial status, or national origin.

EXPLAIN WHAT ISN'T CHANGING

FOR ALL CONSUMERS

- Explain that agents who are REALTORS® are always here to help them navigate the real estate transaction process and are ethically obligated to work in their best interest.
- Note that compensation for agents remains fully negotiable, and if their agent is a REALTOR®, the agent must abide by the REALTOR® Code of Ethics and have clear and transparent discussions with consumers about compensation.
- Tell them that when finding an agent to work with they should ask questions about compensation and understand what services they are receiving.
- Underscore that they have choices and encourage them to work with their agent to understand the full range of these choices and what works best for them.

A note to NAR members

For additional learning:

- **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).**
- **View NAR Fair Housing trainings [here](#).**
- **Read why it's imperative that brokers, agents and appraisers keep [open lines of communication](#) following the practice changes that went into effect on August 17.**