

NAR Settlement Overview

March 2024



NARdotRealtor



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Settlement terms

Proposed settlement agreement

- On March 15, 2024, NAR announced a proposed settlement agreement that would end litigation of claims brought on behalf of home sellers related to broker commissions.
- The settlement is subject to court approval.

Key settlement terms

1. Release of liability

- The agreement would resolve claims against NAR, over one million NAR members, all state/territorial and local REALTOR® associations, all association-owned Multiple Listing Services (MLSs), and all brokerage entities with an NAR member as principal that had a residential transaction volume in 2022 of \$2 billion or below.
- The agreement provides a mechanism for nearly all brokerage entities that had a residential transaction volume in 2022 that exceeded \$2 billion to obtain releases efficiently if they choose to use it.

2. Offers of compensation prohibited from the MLS

- NAR has agreed to put in place a new rule prohibiting offers of compensation on the MLS.
- This change will go into effect in mid-July 2024.

Key settlement terms (cont.)

3. Written agreements for MLS participants acting for buyers

- The settlement provides that MLS participants working with buyers must enter into written agreements with those buyers.
- This change will go into effect in mid-July 2024.

4. Settlement payment

- Under the terms of the agreement, NAR would pay \$418 million over approximately four years.
- NAR's membership dues for 2024 and 2025 will not change because of this payment.

5. NAR continues to deny any wrongdoing

- The settlement, which is subject to court approval, makes clear that NAR continues to deny any wrongdoing in connection with the MLS cooperative compensation model rule (MLS Model Rule) that was introduced in the 1990s in response to calls from consumer protection advocates for buyer representation.

1. Release of liability

Who is covered

To be clear, if you are a REALTOR® and:

- Affiliated with a brokerage group that is not discussed below, **you are covered** (even if your brokerage may not be covered)
- Affiliated with any of these brokerage groups, and are an independent contractor, **you are covered** (even if your brokerage may not be covered)
 - *At World Properties, LLC; Compass, Inc.; Douglas Elliman, Inc.; Douglas Elliman Realty, LLC; eXp Realty, LLC; eXp World Holdings, Inc.; Hanna Holdings, Inc.; HomeSmart International, LLC; Howard Hanna Real Estate Services; Real Broker, LLC; The Real Brokerage, Inc.; Realty ONE Group, Inc.; Redfin Corporation; United Real Estate; and Weichert, Realtors®.*

1. Release of Liability (cont.)

Opt-in mechanism for brokerages with residential transaction volume in 2022 that exceeded \$2 billion

NAR secured in the agreement a mechanism for nearly all brokerage entities that had a residential transaction volume in 2022 that exceeded \$2 billion to obtain releases efficiently if they choose to use it. However, the remaining defendants in the actions covered by the agreement cannot use the opt-in mechanism.

- **Broadly speaking, the opt-in provides two paths:**
 - Option 1: A brokerage can elect to pay an amount based on a predetermined formula that calculates residential transaction volume.
 - Option 2: A brokerage can elect to participate in non-binding mediation within 110 days following preliminary approval of the settlement.
- Brokerages can also choose not to participate in this settlement.
- All agreements reached through this mechanism would be subject to court approval.

2. Offers of compensation prohibited from the MLS

NAR has agreed to put in place a new rule prohibiting offers of compensation on the MLS.

- There will continue to be many ways in which buyer brokers could be compensated, including through offers of compensation communicated off MLS — as we have long believed that it is in the interests of the sellers, buyers, and their brokers to make offers of compensation — but using the MLS to communicate offers of compensation would no longer be an option.
- The types of compensation available for buyer brokers would continue to take multiple forms, depending on broker-consumer negotiations, including but not limited to:
 - Fixed-fee commission paid directly by consumers
 - Portion of the listing broker's compensation

This change will go into effect in mid-July 2024.

3. Written agreements for MLS participants acting for buyers

The settlement provides that MLS participants working with buyers must enter into written agreements with those buyers before touring a home.

- NAR has long encouraged its members to use written agreements because they help consumers understand exactly what services and value will be provided, and for how much.

This change will go into effect in mid-July 2024.

4. Settlement payment

NAR would pay \$418 million over approximately four years.

- This is a substantial sum, and it will be incumbent on NAR to use our remaining resources in the most effective way possible to continue delivering on our core mission.
- NAR's membership dues for 2024 and 2025 will not change because of this payment.

5. NAR continues to deny any wrongdoing

The settlement makes clear that NAR continues to deny any wrongdoing in connection with the MLS cooperative compensation model rule (MLS Model Rule).

- NAR has long maintained — and we continue to believe — that cooperative compensation and NAR’s current policies are good things that benefit buyers and sellers. They promote access to property ownership, particularly for lower- and middle-income buyers who can have a difficult-enough time saving for a down payment.
- With this settlement, NAR is confident it and its members can still achieve all those goals.

Next steps in the settlement process

Nothing about this settlement changes NAR's commitment to lead our industry forward and support our members.

- The settlement is subject to court approval, which is a process that we can expect to take several months or more and will include an opportunity for interested parties to object.
- To opt into the settlement, REALTOR®-owned MLSs, brokerages above the \$2bn threshold who are opting-in, and non-REALTOR MLSs need to execute an appendix.
- The practice changes will go into effect in mid-July 2024.
- We will move to have litigation about the MLS cooperative compensation Model Rule stayed, or paused, as to NAR pending the settlement approval process.