

NAR Settlement

[Facts.realtor](https://facts.realtor)

[Competition.realtor](https://competition.realtor)

Settlement – Key Details

- Proposed – Needs Court Approval
- Full Release
- No admission of wrongdoing
- Settlement Amount: \$418 million paid over 4 years

Practice Changes

Implemented Mid-July

No Compensation on MLS

- Eliminate and prohibit any requirement that listing brokers or sellers must make offers of compensation
- Eliminate and prohibit any requirement that if an offer of compensation is made, it must be blanket, unconditional, or unilateral

No Compensation on MLS

- Prohibit MLS Participants, subscribers, brokers, agents, and their sellers from
 - Making offers of compensation on the MLS to buyer brokers
 - Disclosing on the MLS listing broker compensation or total broker compensation
- Require MLSs to:
 - Eliminate all broker compensation fields on MLS
 - Prohibit the sharing of offers of compensation to buyer brokers via any other MLS field.

MLS Membership

- Eliminate and prohibit any requirements conditioning participation or membership in the MLS on offering or accepting offers of compensation to buyer brokers

No non-MLS Mechanisms

- Agree not to create, facilitate, or support any non-MLS mechanism for listing brokers or sellers to make offers of compensation to buyer brokers
 - Includes by providing listing information to an internet aggregators' website
- No violation if:
 - MLS provides data to another site, unless the MLS knows the data feed is being used directly or indirectly to establish a platform for offers
 - REALTORS® from displaying both a data feed from the MLS and offers of compensation for their firm

Written Buyer Representation

- REALTORS® working with buyers enter into a written agreement before the buyer tours any home with the following:
 - If the REALTOR® will receive compensation from ANY source, the agreement must specify and conspicuously disclose the amount or how it will be determined
 - The amount of compensation must be objectively ascertainable & not open-ended (e.g., “whatever the seller offers”)
 - The REALTOR® may not receive compensation for brokerage services from any source that exceeds what is agreed to in the written document

No Claim of Free Services

- Prohibit REALTORS® from representing to a client or customer that services are free or available to them at no cost unless they are not getting paid by any source

Disclose Fees Upfront

- Require REALTORS® acting for sellers to conspicuously disclose to sellers & obtain seller approval for any payment or offer of payment they will make to another broker
- Disclosure must be in writing, provided in advance of payment/promise, and specify the amount or rate of payment

Disclose Fees Not Set by Law

- Require REALTORS® to disclose to prospective sellers & buyers, in conspicuous language, that brokerage commissions are not set by law and are fully negotiable in:
 - Listing agreements
 - Agreements with buyers
 - In pre-closing disclosure document, if any & they are not government-specified

Don't Filter/Restrict Listings

- Prohibit filtering or restricting listings based on existence or level of compensation offered

Still Allowed

Still allowed:

- Offers of compensation to buyer brokers **OFF** of the MLS
- Sellers offering buyer concessions on MLS
 - Cannot be limited to or conditioned on retention of or payment to buyer broker



REALTOR®

PROPERTY ADDRESS: **VAR Form 500**

Owner: _____

Purchaser: _____

_____ (“Listing Company”) and
_____ (“Selling Company”) agree that Listing Company will
pay Selling Company a cooperating commission fee upon the settlement of the above-referenced
property. Listing Company agrees to pay (check applicable):

- _____% of the purchase price of the Property; and/or
- \$ _____

Listing Company and Selling Company state that this agreement supersedes any cooperating
commission offer including any noted in any MLS listing(s).

Other terms: _____

Listing Company

Selling Company

Broker or Authorized Agent_____
Broker or Authorized Agent

Date: _____

Date: _____

Standard Clause Booklet

1. Seller agrees to pay the following itemized closing costs in connection with the settlement of this transaction: _____
2. Seller agrees to pay up to the sum of \$ _____ [or _____ % of the loan amount/ or purchase price] towards the closing costs incurred by the Purchaser in connection with transaction, including allowable prepaid items, discount points and other closing costs.

Seller agrees to pay Selling Company:

\$ _____

_____ % of Purchase Price

at Settlement pursuant to the brokerage agreement between Purchaser and Selling Company.

Key Practice Changes Summary

- Offers of compensation will not be through the MLS
- Must have written buyer brokerage agreement before showing
- Cannot claim services are free unless no compensation
- Must clearly and conspicuously disclose all compensation to clients & how it may be shared/received
 - Not allowed to receive more than agreed to in agency agreement
- Must clearly and conspicuously disclose commissions are not set by law or MLS

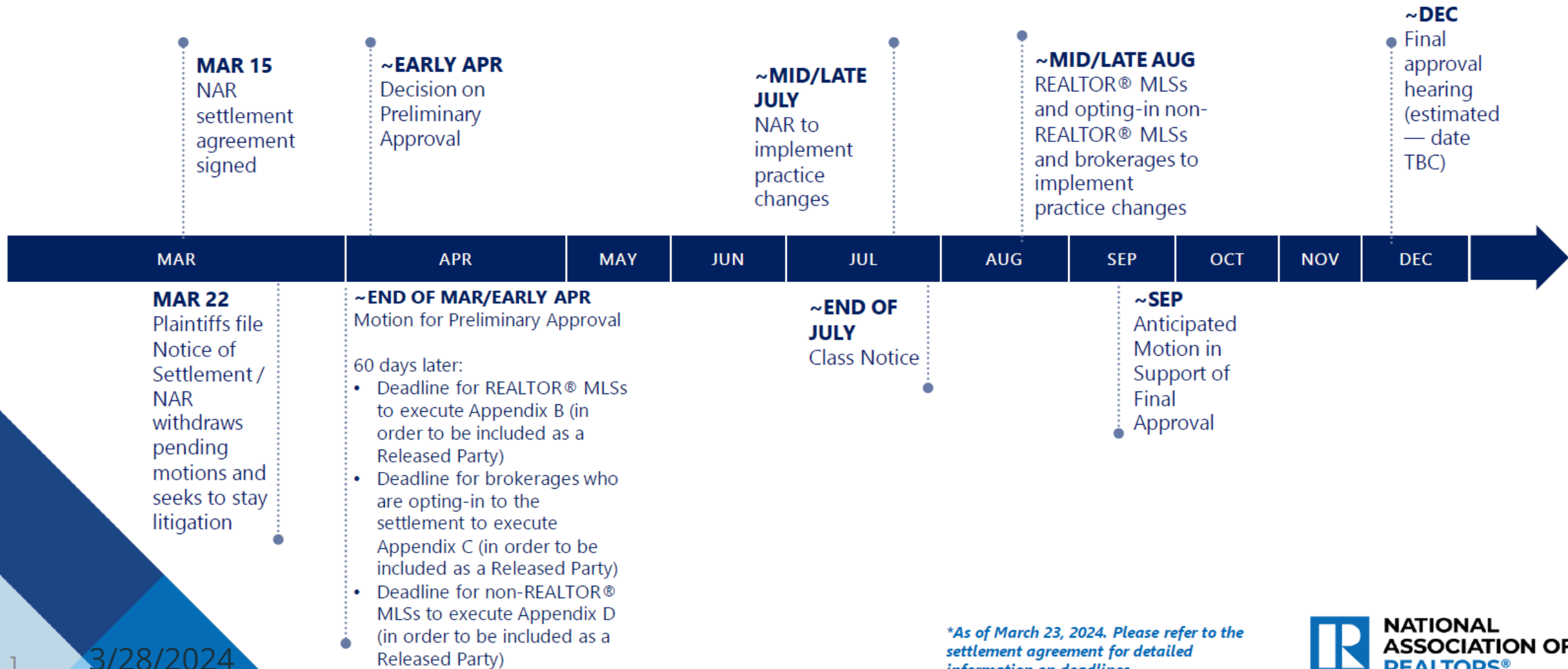
What to Expect

- Changes to Code of Ethics
- Changes to MLS
 - Rules
 - Fields
- Changes to Forms
- Changes to Office Policy Manuals

Settlement – Timeline

- March 15: Settlement signed & announced
- March 22: First filing with the court
- Next steps:
 - Plaintiffs file motion for preliminary approval (~late March/early April)
 - Court reviews & approves/amends with preliminary approval (~early April)
 - NAR begins implementing changes (~mid- to late-July)
 - Class Notices sent (~late July)
 - MLSs & Firms implement changes (~mid- to late August)
 - Final settlement approval from court (~December)

Estimated timeline of key upcoming milestones*



**As of March 23, 2024. Please refer to the settlement agreement for detailed information on deadlines.*

Lawsuit Status

- DOJ –
 - Status: Pending
 - Recent Action: Oral Arguments 12/1/23
 - Expected Decision: April to June 2024
- Buyer – 3 cases
 - Status: Pending, early stages
- Seller – 26 cases
 - Status: Pending

Released Parties

- NAR
- All REALTORS® (individuals)
- All REALTOR® Associations
- REALTOR® MLSs (wholly owned & operated by REALTOR® Assn)
- Firms with Total Transactional Volume for residential sales of \$2 billion or less in 2022
 - Must have a REALTOR® Principal

Opt-In Released Parties

- Non-REALTOR® MLSs
- Firms with more than \$2 billion in Total Transactional Volume for 2022

Not covered & can't opt-in:
Firms named in lawsuits

Settlement Class

All persons who sold a home that was listed on a Multiple Listing Service anywhere in the United States where a commission was paid to any brokerage in connection with the sale of the home in the following date ranges:

- Bright, Charlotte & Raleigh, NC: March 6, 2015 to Class Notice
- Kentucky: October 31, 2018 to Class Notice
- Tennessee: October 31, 2017 to Class Notice
- All other MLSs in Virginia & adjacent states: October 31, 2019 to Class Notice

More Info

Virginia Specific:

- <https://virginiarealtors.org/nar-settlement-resources/>
- <https://virginiarealtors.org/law-ethics/legal-hotline/>

Settlement Generally:

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