

1. Why did NAR enter into this settlement?

- Since the litigation began, we have worked consistently to reach a resolution with the plaintiffs.
- We have always wanted to reduce the significant strain on our members and provide a path forward for the industry and, from the beginning of this litigation, we had two goals:
 - Secure a release of liability for as many of our members, associations, and MLSs as we could; and
 - Preserve the choices consumers have regarding real estate services and compensation.
- This proposed settlement achieves both of those goals and provides a path for us to move forward and continue our work to preserve, protect, and advance the right to real property for all.

2. What are the key terms of the agreement?

- **Release of liability:** The agreement would release NAR, over one million NAR members, all state/territorial and local REALTOR® associations, all association-owned MLSs, and all brokerages with an NAR member as principal whose residential transaction volume in 2022 was \$2 billion or below from liability for the types of claims brought in these cases on behalf of home sellers related to broker commissions.
 - NAR fought to include all members in the release and was able to ensure more than one million members are included.
 - Despite NAR's efforts, agents affiliated with HomeServices of America and its related companies—the last corporate defendant still litigating the *Sitzer-Burnett* case—are not released under the settlement, nor are employees of the remaining corporate defendants named in the cases covered by this settlement.
- The agreement provides a mechanism for nearly all brokerage entities that had a residential transaction volume in 2022 that exceeded \$2 billion and MLSs not wholly owned by REALTOR® associations to obtain releases efficiently if they choose to use it.

Compensation offers moved off the MLS: NAR has agreed to put in place a new rule prohibiting offers of compensation on the MLS. Offers of compensation could continue to be an option consumers can pursue off-MLS through negotiation and consultation with real estate professionals. And sellers can offer buyer concessions on an MLS (for example—concessions for buyer closing costs). This change will go into effect in mid-July 2024.

Written agreements for MLS participants acting for buyers: While NAR has been advocating for the use of written agreements for years, in this settlement we have agreed to require MLS participants working with buyers to enter into written representation agreements with their buyers. This change will go into effect in mid-July 2024.

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 will not change because of this payment.

NAR continues to deny any wrongdoing: 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.

3. Does this settlement mean that NAR is admitting that plaintiffs' allegations are true?

- No. The settlement makes clear that NAR continues to deny any wrongdoing in connection with the Multiple Listing Service (MLS) cooperative compensation model rule (MLS Model Rule).
- It has always been NAR's goal to resolve this litigation in a way that preserves consumer choice and protects our members to the greatest extent possible. This settlement achieves both of those goals.
- This agreement significantly reduces liability nationwide for over one million NAR members, all state/territorial and local REALTOR® associations, association-owned MLSs, and all brokerages with an NAR member as principal that had a residential transaction volume in 2022 of \$2 billion or below. Ultimately, continuing to litigate would have hurt members and their small businesses.
- The agreement provides a path forward for our industry and NAR.

4. What if an agent has different releases under the settlement (e.g., moved between brokerages?) Are they covered by the release in this settlement agreement?

- The release covers most NAR members for the entire time period, and even if an agent is not covered for some of the time period, they may be covered for others for the time they were not affiliated with HomeServices and its related companies.

5. By changing the cooperative compensation policy, aren't you admitting that it was problematic?

- No. The settlement makes clear that NAR continues to deny any wrongdoing in connection with the Multiple Listing Service (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 real property ownership, particularly for lower- and middle-income buyers who can have a difficult-enough time saving for a down payment. Real estate laws in many states authorize offers of compensation.
- With this settlement, NAR is confident it and its members can still achieve all those goals.

6. Is it possible for offers of compensation to be conveyed through channels other than the MLS?

- Yes. Offers of compensation could continue to be an option consumers can pursue off-MLS through negotiation and consultation with real estate professionals. And sellers can offer buyer concessions on an MLS (for example—concessions for buyer closing costs).

7. Will this prohibition save money for sellers or buyers?

- As NAR has maintained throughout the litigation, nothing in NAR's current policies (including the MLS Model Rule) has increased costs for buyers or sellers.

- This settlement would preserve the choices consumers have regarding real estate services and compensation. After the new rule goes into effect, listing brokers and sellers could continue to offer compensation for buyer broker services, but such offers could not be communicated via the MLS.
- The settlement expressly provides that sellers may communicate seller concessions — such as buyer closing costs — via the MLS provided that such concessions are not conditioned on the use of or payment to a buyer broker.

8. How does the settlement affect MLSs?

- The agreement would release association-owned MLSs from liability for the types of claims brought in these cases on behalf of home sellers related to broker commissions.
- While the release excludes MLSs that are not wholly owned by REALTOR® associations, the agreement provides a mechanism for those MLSs to obtain releases efficiently if they choose to use it.
- This mechanism includes opting into the MLS practice changes that are a part of the agreement and paying a per-subscriber fee to the Settlement Fund.
- 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.
- Additionally, we have agreed to require MLS participants working with buyers to enter into written representation agreements with their buyers. This change will also go into effect in mid-July 2024.

9. How does the settlement affect home sellers and home buyers?

- This settlement would preserve the choices consumers have regarding real estate services and compensation.
 - After the new rule goes into effect, listing brokers and sellers could continue to offer compensation for buyer broker services, but such offers could not be communicated via the MLS.
 - MLS participants acting for buyers would be required to enter into written agreements with their buyers before touring a home. These agreements can help consumers understand exactly what services and value will be provided, and for how much.

10. How does the settlement affect corporate brokerages and any brokerages that are carved out from the release?

- The agreement provides a mechanism for nearly all brokerage entities that had a residential transaction volume in 2022 that exceeded \$2 billion and MLSs not wholly owned by REALTOR® associations to obtain releases efficiently if they choose to use it.
- While we would have preferred to protect all industry players, ultimately NAR could not persuade the plaintiffs to include the largest brokerages, particularly given the significant settlements that other corporate defendants have already reached.

11. How will buyer brokers get paid now?

- 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.
- Offers of compensation could continue to be an option consumers can pursue off-MLS through negotiation and consultation with real estate professionals.
- 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
 - Concession from the seller
 - Portion of the listing broker's compensation
- Compensation would continue to be negotiable and should always be negotiated between agents and the consumers they serve.

12. Why does the release of liability carve out some co-defendants and some of their affiliated agents?

- NAR fought to include all members in the release and was able to ensure more than one million members were included.
- Despite NAR's efforts, agents affiliated with HomeServices of America and its related companies—the last corporate defendant still litigating the *Sitzer-Burnett* case—are not released under the settlement, nor are employees of the remaining corporate defendants named in the cases covered by this settlement.
- Plaintiffs would not agree to include these members and employees of the corporate defendants in the NAR's release
- NAR secured in the agreement a mechanism for nearly all brokerage entities that had a residential transaction volume in 2022 that exceeded \$2 billion and MLSs not wholly owned by REALTOR® associations to obtain releases efficiently if they choose to use it.

13. How will NAR fund the settlement?

- One of the critical advantages of this agreement is that NAR would be able to pay the settlement amount over time.
- We will determine how to allocate funds as they become due, working closely with our Finance Committee.

14. How does this settlement change NAR's value proposition? Why should real estate professionals continue to be NAR members after this news?

- We are confident that this agreement provides a path for NAR to move forward and continue our work to preserve, protect, and advance the right to real property for all.
- NAR fought to include all members in the release and was able to ensure more than one million members were included.
- We will continue to deliver unparalleled value to, and advocacy on behalf of, REALTORS®, including through our learning opportunities and resources, research, and member tools.

15. What is the value of an MLS?

- MLSs have always provided significant value beyond communicating offers of compensation.
- MLSs:
 - Enable comprehensive marketplaces: Access to inventory and widespread advertising incentivizes local broker participation.
 - Ensure reliable data access: NAR guidelines for local MLS broker marketplaces enable hubs of trusted, verified information where all participants have equitable access.
 - Create connections: Local MLS broker marketplaces create the largest opportunity for connections between real estate agents with properties to sell and those with clients looking to buy.
 - Advance small business: Compiling housing information that is accessible to all businesses, in one place, allows smaller real estate brokerages to compete with larger ones.
 - Encourage entrepreneurship: Because of lower barriers to entry enabled by local MLS broker marketplaces, new market entrants can advance technology, consumer service and other innovations.

16. What should listing brokers advise their clients about the prohibition of offers of compensation on an MLS?

- Listing brokers should inform their clients that offers of compensation would no longer be an option on an MLS.
- This change will not prevent offers of cooperative compensation off an MLS. And it will not prevent sellers from offering buyer concessions on an MLS (for example – concessions for buyer closing costs).
- Compensation would continue to be negotiable and should always be negotiated between agents and the consumers they serve.

17. Who at NAR signed off on the settlement and was the decision to settle subject to proper NAR governance procedures?

- The settlement was signed off by NAR's Leadership Team, in consultation with outside legal and financial experts, and in accordance with NAR's governance procedures.
- Throughout the settlement process, we engaged with a diverse range of members and considered their perspectives and interests while fighting to protect all industry players as best we could.
- As is common in negotiating a complex settlement, there is a need to maintain confidentiality and effectively navigate complex legal considerations, which restricted the extent of the information that NAR could share more broadly.

18. Why was prohibiting the publication of compensation offers in the MLS part of the settlement?

- While 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, we also acknowledge that continuing to litigate would have hurt members

and their small businesses, so have agreed to put in place a new rule prohibiting offers of compensation on the MLS.

- This is consistent with NAR's long-maintained position that prohibiting all offers of cooperative compensation entirely would harm consumers and be inconsistent with real estate laws in the many states that authorize them.
- We believe this agreement provides a path forward for our industry and NAR.

19. Is it possible for offers of compensation to be conveyed through channels other than the MLS?

- Yes. Offers of compensation could continue to be an option consumers can pursue off-MLS through negotiation and consultation with real estate professionals. And sellers can offer buyer concessions on an MLS.

20. How does the settlement affect state/territorial and local associations?

- The agreement would release all state/territorial and local REALTOR® associations from liability for the types of claims brought in these cases on behalf of home sellers related to broker commissions, and would also require their compliance with the practice changes agreed to in the settlement.

21. Are institutes, societies, and councils affiliated with NAR included in the release in the settlement agreement?

- Yes.

22. Do association-owned MLSs need to do anything to be covered by the release?

- Yes. Association-owned MLSs need to execute an appendix to the agreement in which they agree to abide by the practice changes in the agreement.
- They will have 60 days to execute the appendix.

23. How will offers of compensation be communicated if brokers can't use MLSs? Doesn't this just make broker compensation less transparent?

- Offers of compensation could continue to be an option consumers can pursue off-MLS through negotiation and consultation with real estate professionals. And sellers can offer buyer concessions on an MLS (for example—concessions that can be used for buyer closing costs).
- The settlement does not change the ethical duties that NAR members owe their clients.
- REALTORS® are always required to protect and promote the interests of their clients and treat all parties in a transaction, honestly (Article 1, COE).
- NAR members will continue to use their skill, care, and diligence to protect the interests of their clients.
- NAR remains dedicated to promoting transparency in the marketplace and working to ensure that consumers have access to comprehensive, equitable, transparent, and reliable property information, as well as the ability to have affordable professional representation in their real estate transactions.

24. How quickly do you expect the settlement to be reviewed and/or approved by the court?

- We can expect the process of court review to take several months or more.
- There are strong grounds for the court to approve this settlement because it is in the best interests of all parties and class members.

25. What were the key factors that influenced NAR's decision to choose the legal path it did for the settlement?

- NAR explored settling throughout the litigation and also carefully considered the other legal options available to us. These included:
 - **Appealing:** A win on appeal would only have addressed the verdict in the *Sitzer-Burnett* case (not any of the copycat cases) and may only have resulted in a new jury trial, leaving members and consumers with continued uncertainty.
 - **Chapter 11 reorganization:** In theory, Chapter 11 would have enabled NAR to eliminate its own liabilities while pursuing an appeal of the *Sitzer-Burnett* verdict. But we believe that would have left members with continued uncertainty and potential liability risk. Chapter 11 would also have paused the litigation against NAR but not the other defendants in the cooperative compensation cases.
- Ultimately, while NAR continues to believe that it is not liable for the home seller claims related to broker commissions and that we have strong arguments challenging the *Sitzer-Burnett* verdict, we decided to reach this settlement to put claims to rest for over one million NAR members and other parties who would be released under the agreement.

26. In what ways did NAR attempt to include all members in the settlement process, and what were the limitations?

- Throughout the settlement process, we engaged with a diverse range of members and considered their perspectives and interests while fighting to protect all industry players as best we could.
- As is common in negotiating a complex settlement, there is a need to maintain confidentiality and effectively navigate complex legal considerations, which restricted the extent of the information that NAR could share more broadly.

27. What was NAR's overarching strategy with the settlement and why did NAR choose to not more actively advocate for its position in the public domain during the legal negotiations?

- Since the litigation began, we have consistently worked to reach a resolution with the plaintiffs.
- In the months since the *Sitzer-Burnett* verdict, we redoubled those efforts.
- As is common in negotiating a complex settlement, there is a need to maintain confidentiality and effectively navigate complex legal considerations, which restricted the extent of the information that NAR could share more broadly.
- We have always wanted to reduce the significant strain on our members and provide a path forward for the industry and, from the beginning of this litigation, we had two goals:

- Secure a release of liability for as many of our members, associations, and MLSs as we could; and
- Preserve the choices consumers have regarding real estate services and compensation.
- This proposed settlement achieves both of those goals and provides a path for us to move forward and continue our work to preserve, protect, and advance the right to real property for all.
- Ultimately, while NAR continues to believe that it is not liable for the home seller claims related to broker commissions and that we have strong arguments challenging the *Sitzer-Burnett* verdict, we decided to reach this settlement to put claims to rest for over one million NAR members and other parties who would be released under the agreement.
- NAR has been proactive in publicly advocating our position throughout the litigation. We have published multiple op-eds and provided our perspective to various news outlets reporting on NAR and the challenges our industry faces.
- We have also consistently updated Competition.Realtor—our online hub of information about how REALTORS® and local MLS broker marketplaces create competitive, efficient, pro-consumer markets—with new information, materials, and FAQs pertinent to the litigation.

28. Why is NAR paying so much more to settle than the corporate defendants did?

- This settlement was heavily negotiated and is based on NAR’s ability to pay.
- NAR has secured a release of liability for over one million NAR members, all state/territorial and local REALTOR® associations, all association-owned MLSs, and all brokerages with an NAR member as principal that had a residential transaction volume in 2022 of \$2 billion or below.
- There are strong grounds for the court to approve this settlement because it is in the best interests of all parties and class members.

29. Does the settlement affect NAR’s ability to continue operating?

- We are confident that this agreement provides a path for us to move forward and continue our work to preserve, protect, and advance the right to real property for all.
- The settlement amount 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.
- The Finance Committee and Strategic Planning Committee will remain critical in reviewing and providing guidance about NAR’s operating budget to help ensure we will continue to deliver unparalleled value to and advocacy on behalf of REALTORS®, including through our learning opportunities and resources, research, and member tools.

30. Can NAR use reserves to pay for the settlement? If so, how much?

- This settlement was heavily negotiated, and the amount is based on NAR’s ability to pay.
- One of the critical advantages of this agreement is that NAR would be able to pay the settlement amount over time.

- We will determine how to allocate funds as they become due, working closely with our Finance Committee.

31. What does this settlement mean for NAR advocacy efforts? Is there still funding available for those efforts?

- One of the critical advantages of this agreement is that NAR would be able to pay the settlement amount over time.
- The settlement amount 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.
- The Finance Committee and Strategic Planning Committee will remain critical in reviewing and providing guidance about NAR's operating budget to help ensure we will continue to deliver unparalleled value to, and advocacy on behalf of, REALTORS®, including through our learning opportunities and resources, research, and member tools.

32. Will NAR raise dues or levy an assessment on members to fund the settlement?

- NAR's membership dues for 2024 will not change because of this payment.

33. Are independent MLSs affected by the prohibition of publishing compensation offers on the MLS?

- Independent MLSs are not required to prohibit offers of compensation on the MLS pursuant to the agreement unless they choose to opt into the settlement, in which case they will need to agree to the practice changes in the agreement and pay a per-subscriber fee to the Settlement Fund.

34. Does this prohibition affect the compensation amount paid to the listing broker?

- Compensation would continue to be negotiable and should always be negotiated between agents and the consumers they represent.

35. How does this affect the existing listing agreements that authorize an offer of compensation to be made in the MLS?

- After the new rule goes into effect, listing agreements should be amended to reflect that offers of compensation cannot be communicated via the MLS.
- The settlement expressly provides that sellers may communicate seller concessions — such as buyer closing costs — via the MLS provided that such concessions are not conditioned on the use of or payment to a buyer broker.

36. How would this prohibition affect pending transactions?

- The practice changes will go into effect in mid-July 2024.

37. What steps will buyers' agents need to take to ensure they are being paid for their services?

- 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.

- In fact, the settlement provides that MLS participants working with buyers must enter into written representation agreements with those buyers before touring a home.
- These agreements can help consumers understand exactly what services and value will be provided, and for how much.
- The types of compensation available for buyer brokers would continue to take multiple forms, including but not limited to:
 - Fixed-fee commission paid directly by consumers
 - Concession from the seller
 - Portion of the listing broker's compensation
- Compensation would continue to be negotiable and should always be negotiated between agents and the consumers they represent.

38. Does this mean buyers won't have to use a buyer broker to purchase a property?

- As always, the consumer chooses whether to use a real estate professional. Research has confirmed that consumers find great value in the services provided by a buyer broker, and we continue to believe it is imperative for buyer brokers to clearly articulate what services and value they are providing to consumers.

39. Can a buyer request the listing broker to pay compensation to the buyer broker?

- Offers of compensation could continue to be an option consumers can pursue off-MLS through negotiation and consultation with real estate professionals. And sellers can offer buyer concessions on an MLS (for example—concessions for buyer closing costs).
- Compensation would continue to be negotiable and should always be negotiated between agents and the consumers they serve.

40. What is the mechanism for brokerages with residential transaction volume in 2022 that exceeded \$2 billion to obtain releases?

- 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 based that brokerages 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.

41. What is the mechanism for non-association MLSs to obtain releases?

- For MLSs that are not wholly owned by a REALTOR® association, the agreement includes a mechanism to obtain a release efficiently if they so choose.
- Broadly speaking, the agreement provides two paths:
 - Option 1: The MLS can elect to pay an amount based on a pre-determined formula based on number of MLS subscribers.

- Option 2: The MLS can elect to participate in non-binding mediation within 110 days following preliminary approval of the settlement.
- Under both options, participating non-association MLSs would agree to be bound by the practice changes set forth in the settlement agreement, including and not limited to the adoption of a rule prohibiting offers of compensation on that MLS.
- Non-association MLSs can also choose not to participate in this settlement.