



NAR PROPOSED SETTLEMENT AGREEMENT UPDATE

VAR BROKERS MEETING
April 4, 2024 (via Zoom)



Vermont
Association of Realtors®

SETTLEMENT OVERVIEW:

- Proposed settlement announced March 15, 2024. Subject to court approval
- Nationwide - Members of Settlement Class
- Plaintiff releases all claims
- NAR's intent is that settlement will be resolution to all litigation by sellers across the country – the DOJ suit and 24 copycat lawsuits
- NAR pays \$418 million over four years
- Members dues will not increase in 2024 or 2025
- Realtor® Practice /Rules changes to go into effect July 2024
- NAR admits no wrongdoing



“From the start of this litigation, we knew we had a profound obligation to reach a resolution that’s best for not just the National Association of REALTORS® but for our members and our industry.”



WHO IS COVERED?

- All REALTORS®
 - Excludes employees of remaining named corporate defendants
- NAR and REALTOR® Associations
 - Officers, directors, other participants in NAR activities
 - Local and state/territorial Associations
- Real estate brokerages
 - 2022 residential homes sales transaction volume of 2 billion or less
 - T360 MEGA 1000
 - Excludes named corporate defendants
- REALTOR® MLSs
- Opt-Ins
 - •Real estate brokerages above 2 billion
 - •Non-REALTOR ® MLSs





PRACTICE & RULES CHANGES

- Seller Agents must disclose and obtain seller approval in writing for any payment or offer of compensation including amount or rate for a buyer agent in advance of any offer of payment.
- Compensation moved off the MLS. Broker to broker compensation OUTSIDE of MLS is not prohibited. Compensation outside the MLS can be done in many ways.
- Mandatory Written Buyer Agreements before touring a home. They must specify amount/rate of compensation, if any.
- Buyer Broker may not receive compensation from any source that exceeds agreed upon amount with buyer.



PRACTICE & RULES CHANGES

- Participants can't represent services as free (unless they are)
- Conspicuous notice in contracts that compensation is not set by law and are freely negotiable.
- Listings cannot be filtered or restricted based on compensation.

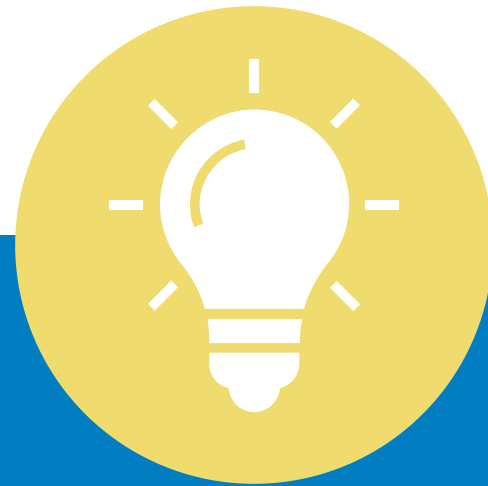
IMPACT ON VERMONT REALTORS®

What does this mean for Realtors® who are members of the Vermont Association of Realtors®?



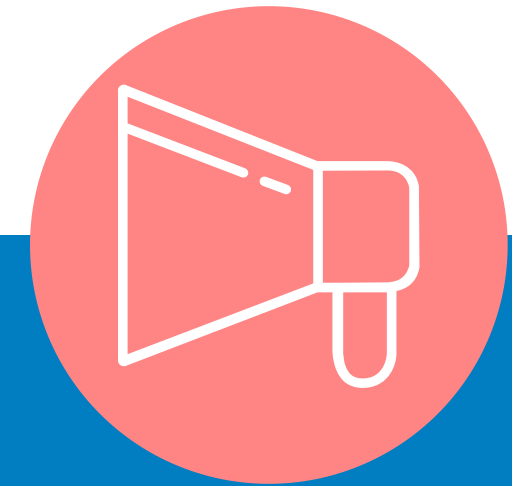
Forms Conformance

Ensure that all forms are in conformance with the requirements of the settlement agreement.



Agency Forms

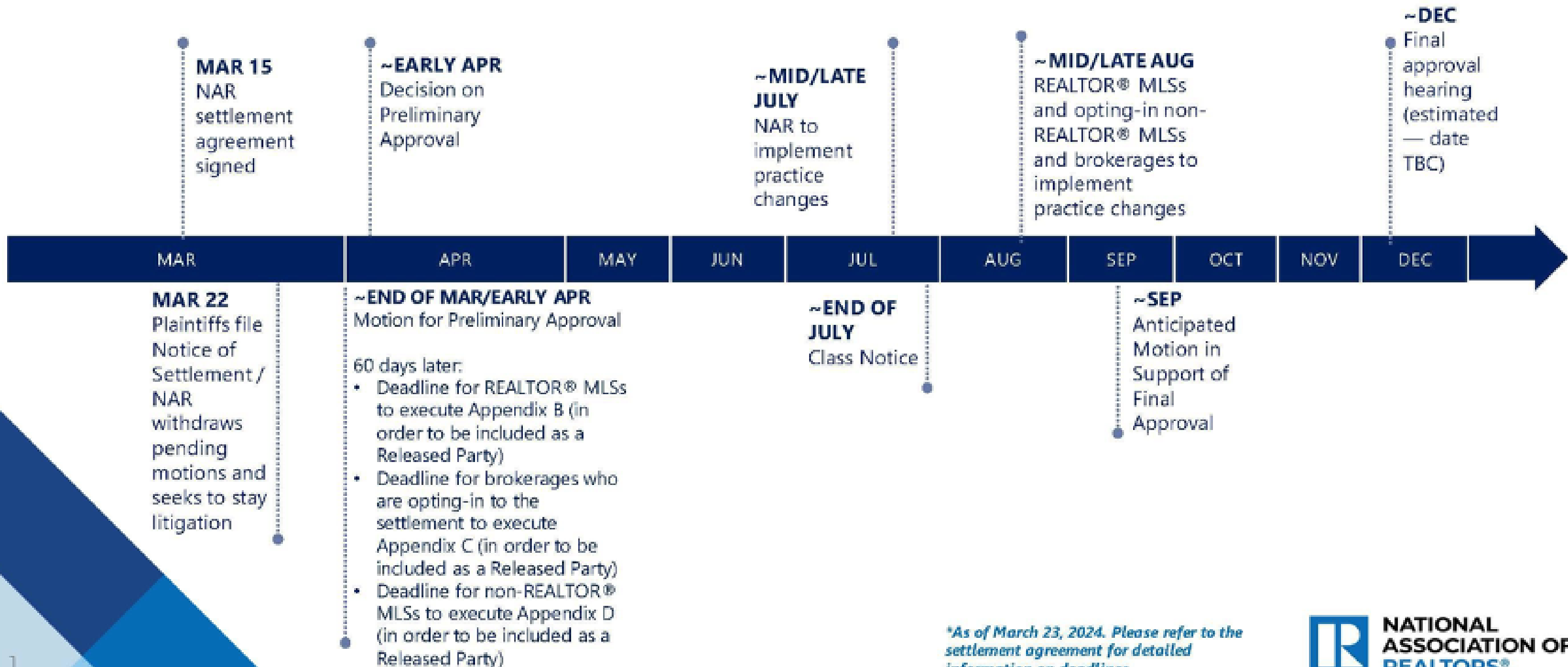
VAR Forms Committee will review agency forms for compliance and make recommendations for revised language or possible new forms.



Education

VAR will provide education to help members understand any changes associated with changes to our forms.

Estimated timeline of key upcoming milestones*



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

RESOURCES

nar.realtor/the-facts

- Copy of settlement agreement
- Updated Q&A
- Settlement fact sheet
- vermontrealtors.com/nar-settlement-agreement-the-facts/



VERMONT REGULATORY IMPLICATIONS

How do the practice changes related to Vermont laws and our profession's Administrative Rules under the Vermont Real Estate Commission?



PRACTICE CHANGES MID/LATE JULY

Why are the practice changes required to go into affect prior to the court approving the proposed settlement?

- They limit current and future liability
- They prevent new suits from being filed
- The changes are directly tied to delivery of notice of the class action



PRACTICE CHANGES & VERMONT

Will the proposed settlement practice changes conflict with or require changes to Vermont Ias or the Administrative Rules?

- Short answer is no



VERMONT & THE PROCESS

Changing the Administrative Rules of the profession is governed by the APA and has to go through a lengthy process (much of it public).

OPR could do emergency rulemaking if the need arose (unlikely)

The yearly "OPR Bill" is a place to potentially see changes next year



ADMINISTRATIVE RULES

Our Rules allow for Broker's Agents

“ A Non-Designated Agency Firm may retain and compensate another brokerage firm to assist in providing services to its clients without thereby creating an agency relationship between the client and the other firm. This practice shall be known as broker agency and the relationship shall be governed by the provisions of Rule 4.11. ”



ADMINISTRATIVE RULES

- Our Rules already require written brokerage service agreements when representing a buyer
 - (b) A buyers service agreement shall contain:
 - (c) a statement of the amount of transaction fee or other compensation to be paid the brokerage firm, the method of computation and the person who will pay it;



ADMINISTRATIVE RULES

- Our Rules already require our seller service agreements to address broker and buyer agent compensation:
 - (8) a clear description of whether, and how, cooperating brokerage firms will be compensated and
 - (9) a clear description of whether, and how, a brokerage firm representing the buyer will be compensated



CAN I STILL SHOW MY OWN LISTINGS?

- Yes. NAR is working on FAQs and guidance regarding this
- Obviously you still need to provide the mandatory CID before showing
- Showing your own listing to an unrepresented buyer can be a seller service
- Providing buyer level services with the expectation of compensation is what will trigger the need for a buyer agreement

