



# Straight Talk on NAR Settlement



Shifting Compensation Landscape

## **Antitrust Disclaimer**

Real estate agents and brokers should not discuss fees or commissions with other brokers as it is a violation of the Sherman Antitrust Act, which prohibits price-fixing, group boycotting, and other antitrust violations.



# NAR Settlement



# NAR Settlement

## Settlement Highlights

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### Settlement Terms

1. All NAR Realtor members except HomeServices Affiliates are covered. *Note that Anywhere, Re/Max, and KW already settled. Compass settled after the settlement was announced.*
2. Approximately 90 brokerages that are above \$2B in sales volume are \*not\* covered by the NAR Settlement. Their Realtors ARE covered. (Excl. HSA brokerages + affiliates)
3. NAR Settlement includes rules changes that go into effect **July 2024**
4. Includes 3 main seller lawsuits and all copycats (does not include the buyer lawsuits)
5. The settlement must be approved by the court.

# IF YOU ARE AN NAR MEMBER, YOU ARE COVERED BY THE SETTLEMENT\*



## **You are an employee of:**

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; Keller Williams Realty, Inc.; Real Broker, LLC; The Real Brokerage, Inc.; Realogy Holdings Corp.; Realty ONE Group, Inc.; Redfin Corporation; RE/MAX, LLC; United Real Estate; or Weichert, Realtors®

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**Or**

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**You are associated with HomeServices of America or one of its affiliates.**

*\*Please refer to the settlement agreement for details about being a Released Party, including the required practice changes, which can be found in Section H. The settlement agreement is subject to court approval.*

# Compensation Rule Changes

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## Compensation

1. No requirement to be a member in association or MLS to receive compensation
2. No offer of buyer broker compensation allowed in Realtor MLS
3. No requirement of unilateral offer of compensation to a Buyer Broker
4. Can't create a non-MLS mechanism (portal, social group, etc) for the purpose of listing brokers making compensation offers to buyer brokers
5. Buyer broker compensation can be displayed on brokerage or agent website for broker listings **only**



# Contract and Disclosure Changes

## Contracts and Disclosure

1. May not state state services as “free” unless there is no compensation from any source
2. Must disclose that fees and commissions are not set by law and are fully negotiable
3. Buyer broker must have the buyer sign an agreement and negotiate fees prior to showing a property from MLS.
4. Buyer brokers can only be compensated what is in the buyer broker agreement - no more than that from any source.
5. The amount of compensation cannot be open-ended (must be a specific percent or amount).



# Seller Concession Rules

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## Seller Concessions

1. Sellers may offer concessions via MLS for buyer closing costs but CANNOT be specifically for buyer agent compensation (offer a % or specific number, not OPEN-ENDED)
2. Seller concessions must be asked for in the contract (note on COE and State laws)
3. Concessions are subject to open negotiations in the purchase contract
4. Buyer Agent may not be paid more than pre-negotiated amount on the Buyer Broker Agreement





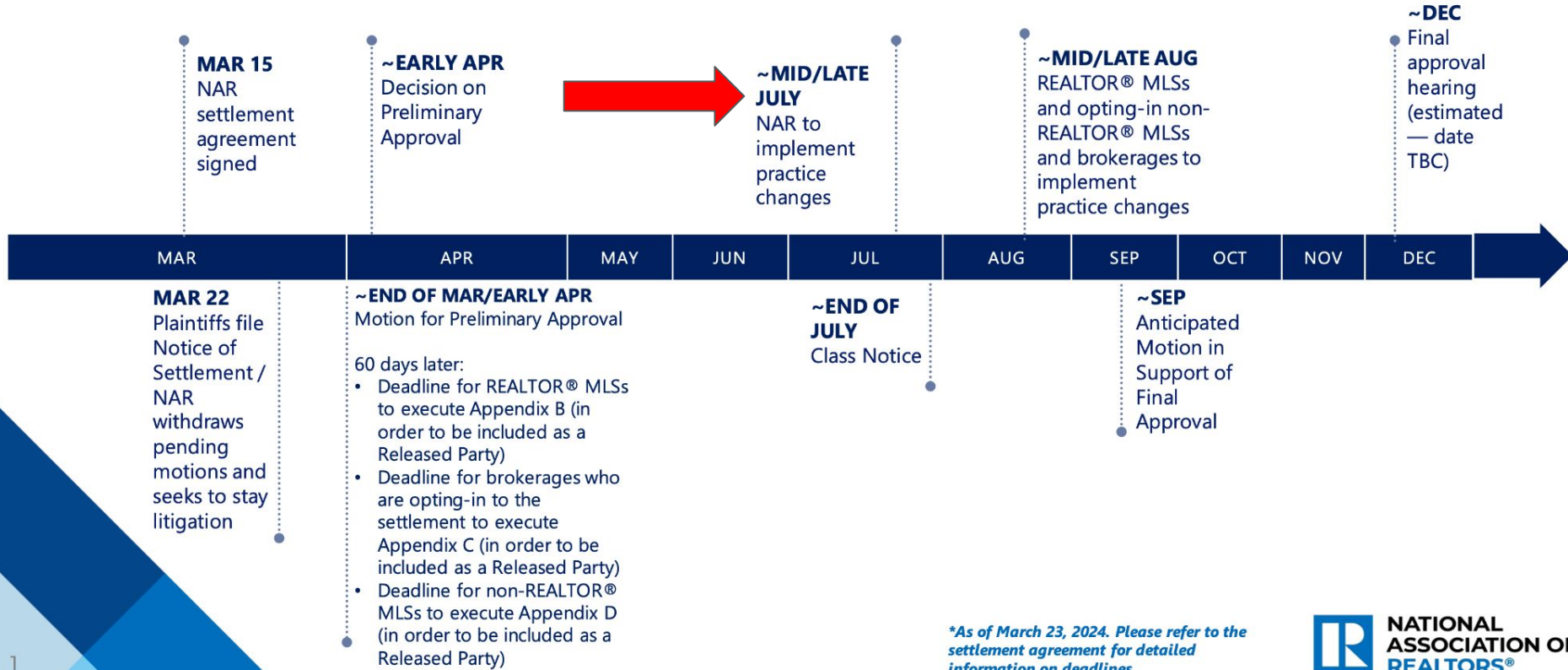
# Buyer Agent Compensation Promotion Rules

## Broker Agent Compensation Promotion

1. Brokers and agents may promote buyer agent compensation on their website ONLY for their listings
2. Brokers and agents are not allowed to offer BAC on the MLS
3. Brokers and agents cannot create any alternative portal or forum to share BAC collectively
4. Brokers and agents can communicate BAC on marketing generally - but cannot do anything collectively that mingles with other brokers or agents.



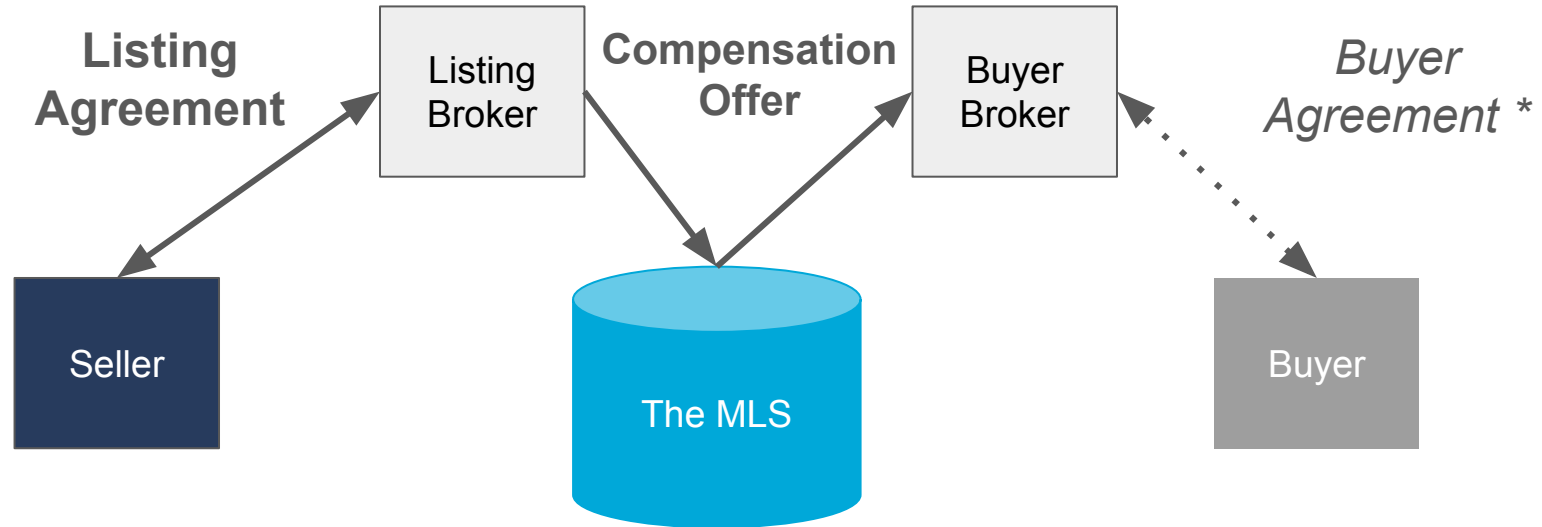
# Estimated timeline of key upcoming milestones\*



What this  
all means



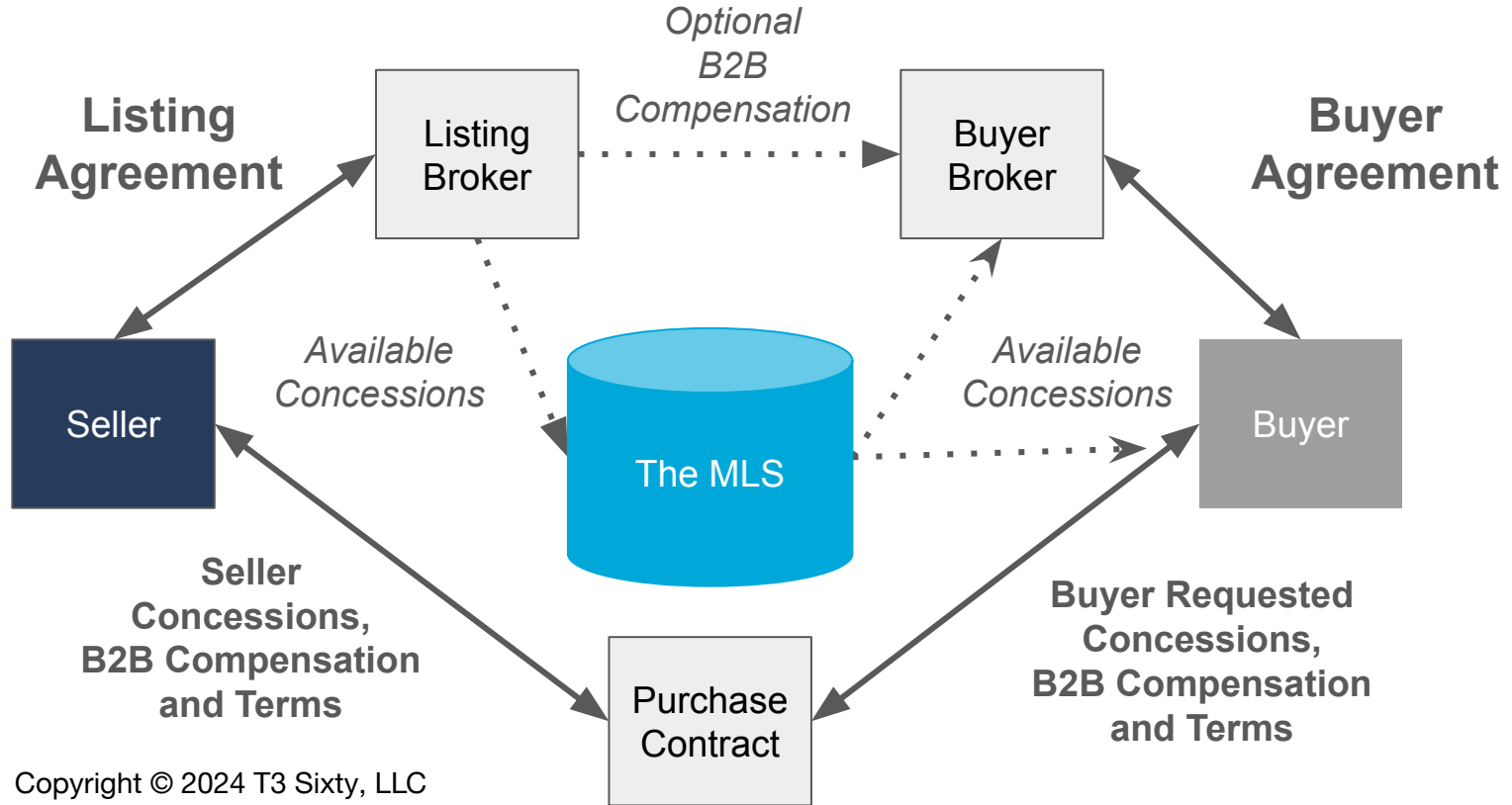
# The Old Way: B2B



*\* Compensation may or may not be addressed.  
Agreement may not exist until purchase contract is submitted (or not at all)*



# The New Way: C2C



# NAR Settlement Resources

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facts.realtor

Your Business

# Offers of Help

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## T3 Trends

- Slides from this talk
- Replay of this presentation
- Monthly exclusive settlement presentation updates
- Broker + agent materials and recommendations
- Materials updated monthly
- Access to 2024 Swanepoel Trends Reports and past STRs
- Access to past Almanacs

[t3trends.com/settlement](https://t3trends.com/settlement)



Your Business

# Offers of Help

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- **Buyer Brokerage Assessment**
  - **Benchmarks**
  - **Review of agreements and P&G manuals**
  - **Review of buyer presentation**
  - **Review of website and marketing materials**
  - **Review of current buyer and seller practices**
  - **Scorecard and recommendations**
- **Buyer Brokerage Presentation for Agents**
  - **Customized to your brokerage**

Email: [connect@t360.com](mailto:connect@t360.com)





THANK YOU!

Email [jack@t3sixty.com](mailto:jack@t3sixty.com)

Cell: 512-784-3804



t360.com



# Frequently Asked Questions

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# Promotion of BAC

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- If agents promotes their listings in a Facebook group largely made up of other agents, would it be allowed to indicate the buyer brokerage compensation there?
- *This is a prohibited type of activity in the settlement agreement. The settlement agreement references promotion being allowed on an agent or broker's website or their individual marketing, but not in a collective forum or environment and has prohibitions against creating or using collective environments to share, such as marketplaces or social media groups.*

# Promotion of BAC

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- **What are your thoughts on commission hubs popping up online such as [commissionlookup.com](https://www.commissionlookup.com)?**
- *These websites appear to be skirting the rules around shared information about buyer broker compensation by putting shared information about compensation on a website. Realtor members, including brokers in this agreement, are prohibited from engaging in or participating in the creation of these kinds of websites to collectively share buyer broker compensation, and it is our opinion, would be in violation of the settlement agreement by doing so.*

# Unrepresented buyers

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- **If a buyer approaches me as the listing agent directly, how do we handle it?**
- *This should be handled in your listing agreement and describe what will happen if you are working with an unrepresented buyer. Unrepresented buyers require additional work and liability incurred by the brokerage and the agent, and so there is a cost for an unrepresented buyer that we recommend is recognized in the listing agreement itself. Check with state agency laws regarding disclosure of status, dual agency/transaction brokerage, and other requirements.*

# Unrepresented buyers

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- **Some buyers will be unrepresented when inquiring about one of our listings. What is our obligation should one wish to submit an offer?**
- *Look to your state agency law and the Realtor Code of ethics. An unrepresented buyer needs to be treated with honesty, accounting for the monies in the transaction, with reasonable skill and care, and disclosure of material facts. They are not owed other duties of service. The costs of your services with unrepresented buyers should be reflected in your listing agreement.*

# Open Houses

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- **Do buyers have to sign an agreement to attend or view an open house?**
- *The open house is a service to the seller and does not mean that the agent that is working at the open house is working for the buyers that come in the door. No buyer broker agreement is needed because the language specifically talks about prior to touring homes, which means setting up showings and going and seeing properties. An open house is a marketing vehicle for the seller and for the seller's agent to use to market the home and agents sitting at open houses are servicing the seller in that regard.*