



## IMPORTANT MEMORANDUM

**Date:** Tuesday, March 19, 2024  
**To:** Realcomp MLS Subscribers  
**From:** Realcomp Leadership  
**Subject:** Potential Nationwide Settlement of NAR Anti-Trust Litigation

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### POTENTIAL NATIONWIDE SETTLEMENT OF NAR ANTI-TRUST LITIGATION

The National Association of Realtors' ("NAR") recently announced that it has reached a tentative nationwide settlement ("Settlement") that could resolve a multitude of the pending anti-trust lawsuits. The terms, however, are still being finalized and approved by all necessary parties. NAR itself has said that a lot of work on the Settlement still needs to be done. Please rest assured that Realcomp is monitoring the developments closely and will notify you of all compliance-related matters as they become available.

First, we would like to reiterate that the Settlement is not finalized and has not been approved by the court. Nonetheless, the negotiations are moving along, and it is anticipated that the Settlement will be approved by the parties and the court in the upcoming months containing many of the same terms as the draft document that was released over the weekend. Therefore, we would like to take this opportunity to review the most significant aspects of the proposed Settlement:

**Release of liability:** The Settlement would release NAR, all association-owned MLSs, and many but not all brokerages from liability to Sellers of homes during the covered time-period for the types of anti-trust claims brought in the recent slew of commission-related cases.

**Compensation offers moved off the MLS:** NAR has agreed to implement a new rule prohibiting compensation offers on the MLS. Compensation offers, however, could continue to be an option consumers can pursue off-MLS through negotiation and consultation with real estate professionals. It is proposed that the rule change will go into effect in mid-July 2024.

**Written agreements for MLS participants acting for buyers:** Assuming the Settlement is approved, part of the remedial portion of the Settlement will require that all NAR's participating MLS members/subscribers working with buyers enter into written representation agreements with their buyers. This change would also be effective starting in mid-July 2024.

**Settlement payment:** NAR would pay \$418 million over approximately four years. While this is a substantial sum, it is currently contemplated that NAR's membership dues for 2024 will not change even with this payment.

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**Other Terms:** There are other substantive terms to the Settlement and NAR maintains its position through the Settlement that cooperative compensation and NAR's current policies benefit buyers and sellers but that the Settlement is best for the industry as a whole.

While we are waiting for final guidelines to indicate how listing agreements might need to be adjusted, subscribers may consider implementing a couple of changes to their practices in the near term. One, subscribers should consider implementing buyer's agency agreements for all of their buyer representation relationships. A thorough template of such an agreement is available through Realcomp. Two, subscribers should also consider the propriety of entering into a Seller Concession Addendum in those transactions where one is appropriate. A template of this type of document is also available through Realcomp.

Finally, we urge all subscribers to exercise caution in following coverage from major news outlets reporting on this story. We have noticed that much of the reporting is imprecise and/or conveys facts and information that is either misleading or simply not part of the proposed Settlement. We are concerned that this could lead to inaccurate assumptions about what changes the proposed Settlement actually requires.

While we will surely be guiding our subscribers through some historic transitions in the coming weeks and months, be sure to visit [competition.realtor](http://competition.realtor) for accurate up-to-date details on this issue and how it may affect your business. Please don't hesitate to contact us with any questions as they arise.