

NAR Settlement: Eligible Brokerage Opt-In Instructions

VOLUNTARY OPT-IN DEADLINE: JUNE 18, 2024

OVERVIEW:

On March 15, 2024, NAR announced a proposed settlement of litigation that would resolve claims brought on behalf of home sellers related to broker commissions. On April 19, 2024, Plaintiffs filed the first motion for preliminary approval, which triggers the June 18, 2024 deadline to submit an opt-in agreement (60 days from filing the first motion for preliminary approval).

If an eligible brokerage does not opt-in by June 18, 2024, it could lose any benefits under the settlement to which it is entitled.

ELIGIBLE BROKERAGES:

The settlement provides a voluntary opt-in mechanism for brokerages with an NAR member as a principal and a residential sales volume of greater than \$2 billion in 2022, except that the brokerage defendants of the *Sitzer/Burnett*, *Moehrl*, *Umpa*, and *Gibson* lawsuits are not eligible to opt-in to NAR's settlement (See Paragraph 13 of Appendix C and Paragraph 18 (g and h) of the settlement).

OPT-IN PATHS:

- 1. OPTION 1 (See Paragraph 22 of Appendix C):**
Pay an amount based on Plaintiffs' formula using that brokerage's residential transaction volume by no later than 120 days following preliminary court approval of the settlement, a date that has not been set but will be announced.
- 2. OPTION 2 (See Paragraph 23 of Appendix C):**
Pay the amount you agree and Plaintiffs negotiate in a non-binding mediation with Plaintiffs' counsel by no later than 110 days following preliminary court approval of the settlement, a date that has not been set but will be announced.

OPT-IN STEPS:

An Eligible Brokerage that voluntarily elects one of the two opt-in paths outlined above, must:

- 1. Complete, execute and email [Appendix C](#) by no later than June 18, 2024 (Paragraph 20):**
 - a. Insert the name of the brokerage (Page 1).
 - b. Provide a sworn declaration attesting to your brokerage's Total Transaction Volume for each of the most recent four calendar years (See Paragraph 20).
 - c. Indicate whether Eligible Brokerage selects Option 1 or 2 (See Paragraph 20).
 - d. Execute, date, and insert the brokerage name, but leave the lines for "On Behalf of Co-Lead Counsel" blank (Page 22).
 - e. Email an executed copy of Appendix C to each of the following: realtorsoptin@jndla.com, realtorsoptin@cohenmilstein.com, nargovernance@nar.realtor.
- 2. Implement the practice changes outlined in Section F of Appendix C as soon as practicable (NAR will announce new model rules no later than August 17, 2024), but by no later than September 16, 2024.**
- 3. Maintain the practice changes in Section F of Appendix C for a minimum of 5 years after the date of Class Notice, the date of which has not been set but, once it is, NAR will announce it.**
- 4. Review and abide by the terms set forth in Appendix C.**

If you have any questions about these instructions, please contact Mike Rohde, NAR Staff Attorney at mrohde@nar.realtor.

THE SETTLEMENT, INCLUDING A BROKERAGE OPT-IN AGREEMENT, IS SUBJECT TO COURT APPROVAL. APPENDIX C MAY BE RESCINDED BY EITHER THE ELIGIBLE BROKERAGE OR THE PLAINTIFFS PURSUANT TO SECTION J OF APPENDIX C. THE INFORMATION PROVIDED HEREIN IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT A SUBSTITUTE FOR LEGAL ADVICE OR FOR THE TERMS OF THE SETTLEMENT ITSELF. PLEASE CONSULT YOUR LEGAL COUNSEL.