

## BROKER-TO-BROKER AGREEMENTS 101

Effective August 17, 2024, MLS Participants are prohibited from communicating any offer of compensation via an MLS. All broker compensation fields will be eliminated on MLSs opting into the settlement practice changes.

The settlement empowers consumers with choice when it comes to services, compensation, and marketing strategies that meet their needs. Real estate professionals should work with sellers to ensure they fully understand their options, including the ability to make offers of compensation off-MLS to brokers working with buyers.

The settlement expressly preserves offers of compensation as an option when agreed upon by the consumer and the broker. Offers of compensation are good for buyers and sellers and help make the path to homeownership accessible for all buyers, especially first-time, low income, and other underrepresented homebuyers.

### OFFERS OF COMPENSATION CAN BE MADE OFF-MLS

[NAR Policy](#) does not dictate whether an offer of compensation is made. The amount—and existence—of any offer of compensation is an option solely determined by the real estate professional and the consumer.

In cases where a seller believes it is in their best interest and makes the informed decision to instruct their listing broker to offer compensation to buyer brokers, the listing broker may communicate the offer of compensation off-MLS. For example, the offer of compensation for the broker's listing could be communicated through common marketing methods such as on the broker's website, signs, flyers, social media posts, or by communicating directly with the buyer broker.

### SELLER CONSENT IS REQUIRED

As of August 17, 2024, before a REALTOR® or MLS Participant makes an offer of compensation or a payment to another broker, agent, or other representative (e.g., a real estate attorney) acting for a buyer:

- The REALTOR® or MLS Participant must conspicuously disclose to sellers and obtain seller approval for any payment or offer of payment that a listing broker will make to another broker acting for buyers; and
- This disclosure must be made to the seller in writing in advance of any payment or agreement to pay another broker acting for buyers and must specify the amount or rate of such payment.

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## NEGOTIATING, TIMING, AND THE BROKER-TO-BROKER AGREEMENT

The NAR Code of Ethics requires REALTORS® to ascertain the terms of compensation, if any, before beginning efforts to accept the offer of cooperation or touring the home (See Article 3, Standard of Practice 3-1).

The listing broker and buyer broker may negotiate and agree to an offer of compensation prior to the buyer broker and buyer touring the home through a Broker-to-Broker agreement. **Keep in mind that pursuant to the settlement practice changes, a buyer broker cannot accept compensation from any source that is more than the amount agreed to between the buyer broker and the buyer.**

While NAR policy does not dictate the terms, or existence, of a Broker-to-Broker compensation agreement, keep in mind that Broker-to-Broker compensation agreements between REALTORS® are arbitrable disputes under Article 17 of the Code of Ethics and arbitrable between MLS Participants pursuant to MLS Policy.

## BENEFITS OF BROKER-TO-BROKER AGREEMENTS

Broker-to-Broker agreements may:

- Memorialize the compensation agreement between brokers, in accordance with the seller's authorization to the listing broker and the buyer's agreement with the buyer broker.
- Reduce confusion and misunderstanding of an offer of compensation.
- Be instructive in the event of a dispute.

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