# Notice of Settlement Approval Hearing

**IF YOU HELD BUSINESS INTERRUPTION INSURANCE WITH AVIVA CANADA AT ANY TIME BETWEEN MARCH 1, 2020 AND AUGUST 31, 2021, *PLEASE READ THIS NOTICE CAREFULLY AS YOUR LEGAL RIGHTS MAY BE AFFECTED***

**PLEASE NOTE THAT ONLY THOSE WHO SUBMITTED NOTICE OF AN INSURANCE CLAIM TO EITHER AVIVA INSURANCE COMPANY OF CANADA OR EPIQ CLASS ACTION & CLAIMS SOLUTIONS, INC. OR CLASS COUNSEL PRIOR TO AUGUST 26, 2025 ARE ENTITLED TO RECEIVE COMPENSATION UNDER THE PROPOSED SETTLEMENT**

## Why did I get this Notice?

The parties have reached a settlement (the "**Settlement**") in the certified class action lawsuit *Nordik Windows Inc. et al v. Aviva Insurance Company of Canada*, Court File Nos. CV-20-00643386-00CP and CV-24-00728023-00CL (the "**Action**"). This Settlement is subject to court approval.

Aviva Insurance Company of Canada ("**Aviva**") has agreed to pay an all-inclusive amount of $150,000,000.00, inclusive of fees, disbursements, Class Proceedings Fund levy, notice and administration costs, and all other amounts (the "**Settlement Amount**") in exchange for a full and final release of all claims in or relating to the Action. The settlement is not an admission of liability on the part of Aviva but is a compromise of disputed claims.

## Am I A Class Member?

You are a Class Member if you did not opt-out and:

1. your business purchased a valid insurance policy that was in force for some or all of the period from March 1, 2020 through August 31, 2021, including Aviva Enterprise, Aviva Commercial, or any other Aviva policy that contained business interruption insurance coverage (explained in more detail below), as defined at paragraph 2 of the Certification Order of Morgan J. dated March 22, 2023. Class Member includes businesses that are members of the certified class in the Quebec *L'Academie Class Action (9391-2186 Quebec Inc. (DBA Restaurant L'Academie Crescent) v. Aviva Insurance Company of Canada et al,* Court File No. 500-06-001091-202) or the proposed class in the British Columbia *Fritzwork Class Action* (*Fritzworks Printing Services Inc. v. Aviva Insurance Company of Canada,* Court File No. VLC-S-S-209189) or any other proposed class actions against Aviva relating to the matters that are the subject of this Action. Class Member does not include business that are members of the certified classes in *Matt McCallum et al v Aviva Insurance Company of Canada,* CV-20-0000981-00CP and *The Royal Canadian Legion, Victory Branch #317 v Aviva Insurance Company of Canada*, CV-20-00001041-00CP.

## What is this Lawsuit About?

This action was commenced by the following Plaintiffs: Nordik Windows Inc., Cash and Carry Inc., Hangar9 Inc., and Real Food For Real Kids (collectively, the "**Representative Plaintiffs**"). The lawyers for the Representative Plaintiffs and Class Members are Thomson Rogers LLP, Lax O'Sullivan Lisus Gottlieb LLP and Miller Thompson LLP ("**Class Counsel**").

Aviva issued insurance policies which allegedly indemnified insureds for losses associated with "business interruption" under endorsements for restricted access and negative publicity (explained further below). In 2020, the COVID-19 pandemic severely impacted Canada's economy and caused many businesses to suffer business losses. Aviva determined that most COVID-19 related business income loss insurance claims were not covered under the endorsements for restricted access and negative publicity.

The Representative Plaintiffs sued Aviva for denying insurance claims made for business interruption coverage. Specifically, the Representative Plaintiffs advanced claims under Aviva's restricted access Coverage ("**RA Coverage**") and negative publicity Coverage ("**NP Coverage**") (each individually and together comprising the "**Applicable Coverage**"), among other business interruption coverage.

- RA Coverage insures actual business income loss caused by the interruption of business when ingress to or egress from the premises is restricted, in whole or in part, by order of civil authority resulting from an outbreak of a contagious or infectious disease that is required by law to be reported to government authorities.

- NP Coverage insures actual business income loss caused by an outbreak of a contagious or infectious disease within a specified distance (typically 25 kilometers) of the premises that is required by law to be reported to government authorities.

## Will I Be Eligible for Compensation Under the Settlement?

If the Court approves the Settlement, you will be eligible to make a claim for compensation under the proposed Settlement if you are a Class Member who:

a. made an insurance claim to Aviva **or** Epiq Class Action & Claims Solutions, Inc. ("**Epiq**") **or** Class Counsel for business interruption losses related to the COVID-19 pandemic **before August 26, 2025**; and

b. your Aviva insurance policy contained the Applicable Coverage.

For greater certainty, Class Members that have made insurance claims includes all members of the certified class in the Quebec *L'Academie Class Action (9391-2186 Quebec Inc. (DBA Restaurant L'Academie Crescent) v. Aviva Insurance Company of Canada et al,* Court File No. 500-06-001091-202).

## Will I Receive Compensation from the Settlement?

The Settlement is not binding until the Court approves it.

If the Court approves the Settlement, eligible Class Members that submit claims under the Settlement claims process will receive:

1) **$15,000.00** if you elect to proceed under the **Simplified Claims Process**; or,

   **Note:** No Required Financial Loss Data (listed below) is needed for claims made using the Simplified Claims Process.

2) **your business income loss for the 30-day Indemnity Period (**March 18, 2020 to April 17, 2020) calculated using the Business Income Loss Calculation.

   **Note**: A Business Income Loss Calculation is based on an eligible Class Member's Required Financial Loss Data which includes, in order of preference:

   (i) the Class Member's corporate tax filings (all forms including General Index of Financial Information ("GIFI")) for the years ending in 2019, 2020, and 2021 for incorporated entities and personal tax filings for unincorporated businesses (all forms including Statement of Business or Professional Activities);

   (ii) the Class Member's monthly profit and loss statements in 2019, 2020, and 2021, if available; and

   (iii) the Class Member's annual financial statements, externally prepared and audited if available, for the years ending 2019, 2020, and 2021.

**IMPORTANT**: A Class Members' business income loss may be adjusted on a *pro rata* basis depending on the number of claims made by Class Members and the cost of settlement administration fees and expenses. Class Members who elect to proceed under the Simplified Claims Process will not be subject to *pro rata* adjustments.

## How do I Participate?

If you are a Class Member and you want to participate in the Settlement, **you do not need to do anything at this time.**

If the Court approves the Settlement, you will be notified in writing regarding how to apply for compensation.

## What is the Legal Fee Arrangement?

Class Counsel will seek court approval of the payment of the following from the $150,000,000 settlement amount:

- a legal fee of 27.5% of the Settlement Amount, plus applicable taxes;

- disbursements (expenses) incurred by Class Counsel and the Class Proceedings Fund to advance the Action and administration expenses incurred to administer the Settlement, plus applicable taxes;

- an honorarium of $15,000.00 to each of the Representative Plaintiffs for the work and time undertaken by them in the Action;

- a levy in the amount of 10% of the net recovery payable to the Class to be provided to the Class Proceedings Fund pursuant to Regulation 771/92; and

- the administrative expenses required for the Settlement Administrator to implement and administer the Settlement, including the notice programs and claims process.

Class Counsel fees, disbursements, the Class Proceedings Fund's levy, administrative expenses, and any payments to the Representative Plaintiffs are subject to Court approval to ensure fairness.

**What if I Want to Object to the Settlement or Legal Fee?**

All Class Members have the right to object to the approval of the Settlement, Class Counsel fees, disbursements, administration expenses, or the payment of an honorarium to the Representative Plaintiffs.

To make an objection, you must deliver a signed written objection by pre-paid mail, courier, fax or email to the Settlement Administrator, BDO Canada LLP, no later than **July 13, 2026 at 5:00 p.m. EST**. The written objection must contain the following information:

a) the Class Member's full name, current mailing address, telephone number and email address (if applicable);

b) confirmation that the individual submitting the objection has authority to act on behalf of the Class Member, if applicable;

c) the policy number and policy effective date held by the Class Member;

d) the applicable title of proceedings (*Nordik Windows Inc v Aviva Insurance Company of Canada*, CV-24-00728023-00CL);

e) a brief statement of the nature of and reason for the Class Member's objection to the Settlement; and,

f) whether the Class Member intends to appear self-represented or by counsel at the Settlement Approval Hearing, and if appearing by counsel, the name, address, telephone number, and email address of counsel.

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If the Court approves the Settlement, you will be bound by the Settlement unless you previously opted out of the class action. The opt-out deadline expired on May 19, 2024.

## Court Documents, Hearings and Help

A Court hearing will be held to seek approval of the Settlement by the Court (the "**Settlement Approval Hearing**"). The Settlement Approval Hearing will take place on October 13, 2026, in person at 330 University Avenue in Toronto, or by Zoom at a link to be published on the below website in advance of the Settlement Approval Hearing.

**For more information or a copy of the Settlement**, please go to the following website:

www.avivacanadaclassaction.bdo.ca

If you are unsure whether you are included in the Class, or have any other questions regarding this notice, you can ask for **free help** by calling or emailing BDO Canada LLP at avivaclassaction@bdo.ca or 1-888-333-6029 in English or French or Class Counsel at avivaclassaction@lolg.ca in English.

This Notice has been authorized by an Order of the Superior Court of Ontario.