

# If You Bought an Electrolytic or Film Capacitor Directly From Certain Distributors Since 2000

**You Could Get Money From Settlements Totaling Approximately \$15 Million**

*A Federal Court authorized this Notice. This is not a solicitation from a lawyer.*

- Please read this Notice and the Settlement Agreements available at [www.capacitorsindirectcase.com](http://www.capacitorsindirectcase.com) carefully. Your legal rights may be affected whether you act or don't act. This Notice is a summary, and it is not intended to, and does not, include all of the specific details of the Settlement Agreements. To obtain more specific details concerning the Settlements, please read the Settlement Agreements.
- A class action lawsuit brought on behalf of indirect purchasers of electrolytic and film capacitors ("Capacitors") is currently pending. Capacitors are electronic components that store electric charges between one or more pairs of conductors separated by an insulator.
- Plaintiffs claim that Defendants (listed below) and co-conspirators engaged in an unlawful conspiracy to fix, raise, maintain, or stabilize the prices of Capacitors. Plaintiffs further claim that indirect purchasers of Capacitors may recover for the effect that the conspiracy had on the prices of these electronic components. Plaintiffs allege that, as a result of the unlawful price-fixing conspiracy involving Capacitors, they and other indirect purchasers paid more for Capacitors than they would have paid absent the conspiracy. Defendants deny Plaintiffs' claims.
- Settlements have been reached with Defendants NEC TOKIN Corp. and NEC TOKIN America, Inc. ("NEC TOKIN"); Okaya Electric Industries Co., Ltd. ("OEF"); and Nitsuko Electronics Corporation ("Nitsuko") (collectively "Settling Defendants").
- Your legal rights will be affected whether you act or don't act. This Notice includes information on the Settlements and the lawsuit. Please read the entire Notice carefully.
- The following rights and options – and deadlines to exercise them – are explained in this Notice.

<b>YOUR LEGAL RIGHTS AND OPTIONS</b>		
<b>EXCLUDE YOURSELF</b>	You will not be included in the Settlement(s) from which you exclude yourself. You will receive no benefits from the Settlement(s) from which you exclude yourself, but you will keep any rights you currently have to sue the Settling Defendants about the claims in the case(s) from which you exclude yourself.	_____
<b>DO NOTHING NOW</b>	You will be included in the Settlements and are eligible to file a claim for a payment (if you qualify) at a later date. You will give up your rights to sue the Settling Defendants about the claims in these cases.	
<b>OBJECT TO THE SETTLEMENT</b>	If you do not exclude yourself, you can write to the Court explaining why you disagree with the Settlements.	_____
<b>GO TO THE HEARING</b>	Ask to speak in Court about your opinion of the Settlements.	_____
<b>REGISTER ON THE WEBSITE</b>	The best way to receive notice about filing a claim and updates about the lawsuit.	_____

- The Court in charge of these cases still has to decide on final approval of the Settlement. Payments will be made only (1) if the Court approves the Settlements and after any appeals are resolved, and (2) after the Court approves a Distribution Plan to distribute the Settlement Funds minus expenses and any Court-approved attorneys' fees ("Net Settlement Funds") to Class Members. The proposed distribution plan for these Settlements is to make a *pro rata* distribution to each Class Member resident in a state that permits indirect purchaser antitrust claims based upon the number of approved purchases per Class Member of Capacitors of film or electrolytic Capacitors during the Settlement class period. A list of the states that permit indirect purchaser class claims is set forth on the website [www.capacitorsindirectcase.com](http://www.capacitorsindirectcase.com).

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<b>BASIC INFORMATION</b>
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**1. What Is This Notice About?**

This Notice is to inform you about Settlements reached in this litigation, before the Court decides whether to give final approval to the Settlements. This Notice explains the lawsuit, the Settlements, and your legal rights. The Court in charge is the United States District Court for the Northern District of California. This litigation is known as *In re Capacitors Antitrust Litigation – All Indirect Purchaser Actions*, No. 3:14-cv-03264-JD. The people who sued are called the “Plaintiffs.” The companies they sued are called the “Defendants.”

**2. What Is This Lawsuit About?**

The lawsuit alleges that Defendants and co-conspirators conspired to raise and fix the prices of Capacitors for more than ten years, resulting in overcharges to indirect purchasers of Capacitors. The complaint describes how the Defendants and co-conspirators allegedly violated the U.S. and state antitrust, unfair competition, and consumer protection laws by agreeing to fix prices and restrict output of Capacitors by, among other things, face-to-face meetings and other communications, customer allocation, and the use of trade associations. Defendants deny Plaintiffs’ allegations. The Court has not decided who is right.

**3. Why Are There Settlements, But the Litigation Is Continuing?**

Only three groups of Defendants have agreed to settle the lawsuit – NEC TOKIN Corp. and NEC TOKIN America, Inc. (“NEC TOKIN”); Okaya Electric Industries Co., Ltd. (“OEI”); and Nitsuko Electronics Corporation (“Nitsuko”). The case is continuing against the remaining Defendants (“Non-Settling Defendants”). Additional money may become available in the future as a result of a trial or future settlements, but there is no guarantee that this will happen.

**4. Who Are the Non-Settling Defendant Companies?**

The Non-Settling Defendant companies include: Elna Co., Ltd., Elna America Inc., Hitachi Chemical Co., Ltd., Hitachi Chemical Co. America, Hitachi AIC Inc., Ltd., Ltd., Matsuo Electric Co., Ltd., Nichicon Corp., Nippon Chemi-Con Corp., United Chemi-Con, Inc., Matsuo Electric Co., Ltd., Nichicon Corp., Nichicon America Corp., Nissei Electric Co., Ltd., Panasonic Corp., Panasonic Corp. of North America, Rubycon Corp., Rubycon America Inc., SANYO Electric Co., Ltd., SANYO Electronic Device (U.S.A.) Corp., Shinyei Technology Co., Ltd., Soshin Electric Co., Ltd., Taitso Corp., and Toshin Kogyo Co., Ltd. (collectively, “Non-Settling Defendants”).

**5. What Are Capacitors?**

Capacitors are one of the most common electronic components in the world today. They store electric charges between one or more pairs of conductors separated by an insulator. Most electronic products – from cellphones to personal computers to home appliances – contain them, sometimes hundreds of them. The three basic types of capacitors are ceramic, electrolytic, and film, the latter two of which are the subject of this lawsuit. Electrolytic and film capacitors are widely used in a range of industries, such as information and telecommunications, audiovisual, and electronic games. An “electrolytic capacitor” uses an electrolyte (an ionic conducting liquid) as one of its plates to achieve a relatively larger capacitance per unit volume. A “film capacitor” uses insulating plastic film and one of two conductive materials, propylene or polyester.

**6. Why Is This a Class Action?**

In a class action, one or more people called the “class representatives” sue on behalf of themselves and other people with similar claims in the specific class action. All of these people together are the “Class” or “Class Members.” In a class action, one court may resolve the issues for all Class Members, except for those who exclude themselves from the class.

<b>THE SETTLEMENTS</b>
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**7. How Do I Know If I May Be Included in the Class?**

The NEC TOKIN Settlement Class includes persons and entities in the United States that, from April 1, 2002, through July 15, 2016, purchased from a distributor (or from an entity other than a Defendant) one or more Capacitor(s) that a Defendant or alleged co-conspirator manufactured. Excluded from the NEC TOKIN Settlement Class are Defendants, their parent companies, subsidiaries, and Affiliates, any co-conspirators, Defendants’ attorneys in this case, federal government entities and instrumentalities, states, and their subdivisions, all judges assigned to the case, and all jurors in the case.

The Okaya Settlement Class includes persons and entities in the United States that, from January 1, 2002, through April 14, 2016, purchased from a distributor (or from an entity other than a Defendant) one or more Capacitor(s) that a Defendant or alleged co-conspirator manufactured. Excluded from the Okaya Settlement Class are Defendants, their parent companies, subsidiaries, and Affiliates, any co-conspirators, Defendants’ attorneys in this case, federal government entities and instrumentalities, states, and their subdivisions, all judges assigned to the case, all jurors in the case, and all persons and entities who directly purchased Capacitors from Defendants.

The Nitsuko Settlement Class includes persons and entities in the United States that, from January 1, 2003, through March 29, 2016, purchased from a distributor (or from an entity other than a Defendant) one or more Capacitor(s) that a Defendant or alleged co-conspirator manufactured. Excluded from the Nitsuko Settlement Class are Defendants, their parent companies, subsidiaries, and Affiliates, any co-conspirators, Defendants' attorneys in this case, federal government entities and instrumentalities, states, and their subdivisions, all judges assigned to the case, and all jurors in the case.

The specific definition of who is included in each of the Settlement Classes is set forth in the Settlement Agreements and in the order preliminarily approving the Settlements. The Settlement Agreements, the preliminary approval order, and the related Complaints are accessible on the website [www.capacitorsindirectcase.com](http://www.capacitorsindirectcase.com).

## **8. What Do the Settlements Provide?**

The combined Settlement Fund from the three Settlements is \$14,950,000. After deduction of attorneys' fees, notice and administration costs, and litigation expenses, as approved by the Court, the remaining Settlement Fund will be available for distribution to Class Members that timely file valid claims. The Settlements also include nonmonetary relief, including cooperation in litigating against the Non-Settling Defendants.

More details about the Settlements are set forth in the Settlement Agreements, available at [www.capacitorsindirectcase.com](http://www.capacitorsindirectcase.com).

## **HOW TO GET BENEFITS**

### **9. How Much Money Can I Get?**

At this time, it is unknown how much each Class Member that submits a valid claim will receive. Payments will be based on a number of factors, including the number of valid claims filed by all Class Members for film or electrolytic Capacitors and the dollar value of each Class Member's purchase(s) of film or electrolytic Capacitors in proportion to the total claims filed. No matter how many claims are filed, no money will be returned to the Settling Defendants once the Court finally approves the Settlements. In order to receive a payment, you will need to file a valid claim form before the claims period ends. You may obtain a claim form and review instructions for completing the claim form at [www.capacitorsindirectcase.com](http://www.capacitorsindirectcase.com). If you want to be kept updated about the claims process or any future settlements, you should register at [www.capacitorsindirectcase.com](http://www.capacitorsindirectcase.com).

Payments to Class Members will be made only: (1) if the Court approves the Settlements and after any appeals are resolved, and (2) in accordance with the Distribution Plan to distribute the Settlement Funds minus expenses and Court-approved attorneys' fees ("Net Settlement Fund") to Class Members. The Distribution Plan, as approved by the Court, will determine the amount, if any, that each Class Member will receive. The proposed distribution plan for these Settlements is to make a *pro rata* distribution to each Class Member resident in a state that permits indirect purchaser antitrust claims based upon the number of approved purchases per Class Member of Capacitors of film or electrolytic Capacitors during the Settlement class period. A list of the states that permit indirect purchaser class claims is set forth on the website [www.capacitorsindirectcase.com](http://www.capacitorsindirectcase.com).

### **10. When Will I Get a Payment?**

Claims will be processed once the Court finally approves the Settlements and all appeals are resolved. Counsel for the Class may request that the Court permit the reimbursement of certain litigation costs and expenses. If such request is made, it will be filed at least fourteen days before the objection deadline and posted on the website [www.capacitorsindirectcase.com](http://www.capacitorsindirectcase.com) at that time. Class counsel believes that the total amount of attorneys' fees sought will be no more than \$3,737,500.00, and the total amount of costs sought will be no more than \$2,558,454.00.

## **REMAINING IN THE CLASS**

### **11. What Happens If I Remain in the Class?**

You will give up your right to sue the Settling Defendants on your own for the claims described in the Settlement Agreements unless you exclude yourself from one or more of the Settlement Classes. You also will be bound by any decisions by the Court relating to the Settlements. In return for paying the Settlement Amount and providing the nonmonetary benefits, the Settling Defendants (and certain related entities defined in the Settlement Agreements) will be released from claims relating to the alleged conduct involving the Capacitors identified in the Settlement Agreements. The Settlement Agreements describe the released claims in detail, so read them carefully, since those releases will be binding on you if the Court approves the Settlements. If you have any questions, you can talk with Class Counsel for free, or you can, of course, talk with your own lawyer (at your own expense) if you have questions about what this means. The Settlement Agreements and the specific releases are available at [www.capacitorsindirectcase.com](http://www.capacitorsindirectcase.com).

## **EXCLUDING YOURSELF FROM THE SETTLEMENT CLASSES**

### **12. How Do I Get Out of the Settlement Classes?**

To exclude yourself from one or more of the Settlement Classes, you must send a letter by mail stating that you want to be excluded from *In re Capacitors Antitrust Litigation – All Indirect Purchaser Actions*, No. 3:14-cv-03264-JD. Your letter must also include the following:

- Your name, address, and telephone number;
- A statement saying that you want to be excluded from *In re Capacitors Antitrust Litigation – All Indirect Purchaser Actions*, No. 3:14-cv-03264-JD;
- A statement indicating, by Defendant name, the settlements from which you wish to be excluded; and
- Your signature.

You must include the following statement with your exclusion request: “I want to be excluded from the Capacitors Antitrust Litigation class action settlement with [SPECIFY THE NAME OF EACH SETTLING DEFENDANT WHOSE SETTLEMENT YOU WISH TO EXCLUDE YOURSELF FROM]. I understand that by so doing, I will not be able to get any money or benefits from the settlement with that/those Settling Defendant(s) in this case.”

You must mail your exclusion request, postmarked no later than \_\_\_\_\_, to:

Capacitors Indirect Settlement  
EXCLUSIONS  
c/o A.B. Data, Ltd.  
3410 West Hopkins Street  
P.O. Box 173020  
Milwaukee, WI 53217-8042

### 13. If I Don’t Exclude Myself, Can I Sue for the Same Thing Later?

No. Unless you exclude yourself, you give up any right to sue the Settling Defendants for the claims being released in this litigation.

If you have a pending lawsuit against any of the Defendants, speak to your lawyer in that lawsuit immediately, because you may need to exclude yourself from the Class(es) to continue your own lawsuit.

### 14. If I Exclude Myself, Can I Still Get Money Benefits?

No. If you exclude yourself from any Settlement Class in the Settlements, you will not get any money as a result of the Settlement.

## THE LAWYER REPRESENTING YOU

### 15. Do I Have a Lawyer Representing Me?

The Court has appointed the following lawyer as Class Counsel to represent you and all other members of the Classes:

Steven N. Williams, Esq.  
Cotchett, Pitre & McCarthy, LLP  
San Francisco Airport Office Center  
840 Malcolm Road, Suite 200  
Burlingame, CA 94010

You will not be charged for contacting this lawyer. If you want to be represented by your own lawyer, you may hire one at your own expense.

### 16. How Will the Lawyers Be Paid?

At the Final Fairness Hearing, Class Counsel may ask the Court to reimburse them for certain fees, costs, and expenses. At the Final Fairness Hearing, or at a later date, Class Counsel will ask the Court for attorneys’ fees based on their services in this litigation, not to exceed 25% of the Settlement Funds and may ask to be reimbursed for certain expenses already incurred on behalf of the Classes in an amount not to exceed \$2,558,454.00. Any payment to the attorneys will be subject to Court approval, and the Court may award less than the requested amount. The attorneys’ fees, costs, and expenses that the Court orders, plus the costs to administer the Settlements, will come out of the Settlement Funds. Class Counsel may seek additional attorneys’ fees, costs, and expenses from any other settlements or recoveries obtained in the future.

When Class Counsel’s motion for fees, costs, and expenses is filed, it will be available at [www.capacitorsindirectcase.com](http://www.capacitorsindirectcase.com). The motion will be posted on the website at least 14 days before the deadline for objecting, commenting on, or excluding yourself from the Settlements. and you will have an opportunity to comment on this request.

## OBJECTING TO THE SETTLEMENTS

### 17. How Do I Object to or Comment on the Settlements?

If you have objections to or comments about any aspect of the Settlements, you may express your views to the Court. You can object to or comment on one or more Settlements only if you do not exclude yourself from that Settlement Class. To object to or comment on the Settlements, you must do the following:

- Specify in writing your name, address, and telephone number;
- Clearly identify in writing the case name, number, and Settlement (*In re Capacitors Antitrust Litigation – All Indirect Purchaser Actions*, No. 3:14-cv-03264-JD);
- Submit your letter to the Court either by mailing it to the Class Action Clerk, United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102, or by filing it in person at any location of the United States District Court for the Northern District of California; and
- Make sure that the letter is filed or postmarked on or before \_\_\_\_\_.

### 18. What Is the Difference Between Excluding Myself From the Class and Objecting to the Settlements?

If you exclude yourself from any of the Classes, you are telling the Court that you do not want to participate in the Settlement(s). Therefore, you will not be eligible to receive any benefits from the Settlement(s), and you will not be able to object to the Settlement(s). Objecting to a Settlement simply means telling the Court that you do not like something about the Settlement. Objecting does not make you ineligible to receive a payment.

## THE FINAL FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the Settlements and any requests by Class Counsel for fees, costs, and expenses. You may attend and you may ask to speak, but you do not have to do so.

### 19. When and Where Will the Court Decide Whether to Approve the Settlements?

The Court will hold a Final Fairness Hearing at \_\_\_\_\_m. on \_\_\_\_\_, at the United States Courthouse, 450 Golden Gate Avenue, Courtroom 11, 19th Floor, San Francisco, CA 94102. The hearing may be moved to a different date or time without additional notice, so check the Court's PACER site, <http://cand.uscourts.gov/cm-ecf>; or [www.capacitorsindirectcase.com](http://www.capacitorsindirectcase.com); or call 1-866-217-4245 to confirm that the date has not been changed. At this hearing, the Court will consider whether the Settlements are fair, reasonable, and adequate. If there are objections or comments, the Court will consider them at that time and may listen to people who have asked to speak at the hearing. The Court may also decide how much to pay Class Counsel and whether to reimburse Class Counsel for certain costs. At or after the hearing, the Court will decide whether to approve the Settlements.

### 20. Do I Have to Attend the Hearing?

No. Class Counsel will answer any questions the Court may have. But you are welcome to attend at your expense. If you send an objection or comment, you do not have to come to Court to talk about it. As long as you filed or mailed your written objection on time, the Court will consider it. You may also hire your own lawyer at your own expense to attend on your behalf, but you are not required to do so.

### 21. May I Speak at the Hearing?

If you send an objection or comment on the Settlements, you may have the right to speak at the Final Fairness Hearing as determined by the Court. You cannot speak at the hearing if you exclude yourself from any of the Classes.

## THE TRIAL

### 22. When and Where Will the Trial Against the Non-Settling Defendants Take Place?

If the case against the Non-Settling Defendants is not dismissed or settled, the Plaintiffs will have to prove their claims against the Non-Settling Defendants at trial. Trial dates have not yet been set. The trial will be held at the United States Courthouse at 450 Golden Gate Avenue, Courtroom 11, 19th Floor, San Francisco, CA 94102.

At the trial, a decision will be reached about whether the Plaintiffs or the Non-Settling Defendants are right about the claims in the lawsuit. There is no guarantee that the Plaintiffs will win any money or other benefits for Class Members at trial.

### 23. What Are the Plaintiffs Asking for From the Non-Settling Defendants?

The Class representatives are asking for money for Class Members. The Class representatives are also seeking an order to prohibit the Non-Settling Defendants from engaging in the alleged behavior that is the subject of the lawsuit.

**24. Will I Get Money After the Trial?**

If the Plaintiffs obtain money or benefits as a result of a trial or settlement, Class Members will be notified about how to ask for a share or what their other options are at that time. These things are not known right now.

<b>GET MORE INFORMATION</b>
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**25. How Do I Get More Information?**

This Notice summarizes the Settlements. More details are in the Settlement Agreements. You can get copies of the Settlement Agreements and more information about the Settlements at [www.capacitorsindirectcase.com](http://www.capacitorsindirectcase.com). You also may write with questions to Capacitors Indirect Settlement, c/o A.B. Data, Ltd., P.O. Box 173020, Milwaukee, WI 53217-8042 or call the toll-free number 1-866-217-4245. You should also register at the website to be notified directly of any future settlements, the terms of the Distribution Plan of the Settlement Funds, how to file a claim form, and other information concerning this litigation.

**DO NOT CONTACT THE COURT, THE OFFICE OF THE CLERK OF THE COURT,  
DEFENDANTS, OR THEIR COUNSEL REGARDING THIS NOTICE**

Dated: \_\_\_\_\_

By Order of the Court  
United States District Court  
Northern District of California