

SOUTHERN DISTRICT OF TEXAS  
HOUSTON

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

FEB 26 2003 JS

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MARK NEWBY, et al.  
  
Plaintiffs,  
  
vs.  
  
ENRON CORPORATION, et al.  
  
Defendants

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Civil Action No. H-01-3624 ✓  
And Consolidated Cases

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INTERNATIONALE  
KAPITALANLAGEGESELLSCHAFT, mbH,  
et al.,  
  
Plaintiffs,  
  
vs.  
  
CREDIT SUISSE FIRST BOSTON  
CORPORATION, et al.  
  
Defendants

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Civil Action No. H-02-4080

**CERTAIN DEFENDANTS' RESPONSE TO PLAINTIFFS'  
MOTION TO ENLARGE TIME TO SERVE THE  
SUMMONS AND COMPLAINT IN THIS ACTION**

Defendants Credit Suisse First Boston Corporation, Credit Suisse First Boston (USA), Inc., Credit Suisse First Boston, Inc., J.P. Morgan Chase & Co., J.P. Morgan Securities Inc. (formerly known as Chase Securities Inc.), J.P. Morgan Securities Holding Inc., J.P. Morgan Investment Corp., Bank of America Corporation, Banc of America Securities LLC, Canadian Imperial Bank of Commerce, CIBC Inc., CIBC WorldMarkets Corp., Deutsche Bank AG, Deutsche Banc Alex. Brown Inc., ABN AMRO Incorporated, successor to named defendant ABN AMRO Securities (USA) Inc., and ABN AMRO Bank N.V. submit this response to Plaintiffs Internationale Kapitalanlagegesellschaft's (on behalf of itself and others), HSBC Trinkaus Luxembourg Investment Managers, SA's (on behalf of itself and others) and HSBC Trinkaus & Burkhardt KGaA's (collectively "Plaintiffs") motion to enlarge time to serve the

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summons and complaint in this action.<sup>1</sup>

Plaintiffs fail to mention that they are pursuing an identical complaint with identical claims against the same defendants in the United States District Court for the Southern District of New York. See Internationale Kapitalanlagegesellschaft, et al. v. Credit Suisse First Boston Corp., et al., 02-CV-8656 (TPG) (S.D.N.Y.) ("the New York action"). Although Plaintiffs and certain Defendants have filed notices with the multi-district litigation panel to have the New York action transferred to this Court for pretrial purposes, Plaintiffs have sought and obtained the same extension they seek here for service of the complaint in the New York action. We respectfully submit that Plaintiffs should choose to pursue one action or the other, and should not be permitted to continue duplicate service of identical complaints in two actions. See Hardwick v. Brinson, 523 F.2d 798, 800 (5th Cir. 1975) (requiring plaintiff to pursue only one of his three actions because "plaintiff is entitled to have his claim considered but by only one of the courts he had selected").

Dated: February 26, 2003

Respectfully submitted,



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ATTORNEY-IN-CHARGE FOR CREDIT SUISSE  
FIRST BOSTON CORP., CREDIT SUISSE FIRST  
BOSTON INC., AND CREDIT SUISSE FIRST  
BOSTON (USA) INC.

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<sup>1</sup> Defendants submit this response without any waiver of their defenses, including but not limited to personal jurisdiction and insufficiency of service of process.