

Chase”)¹ respectfully request that this Court amend its March 22, 2002 Scheduling Order (the “Scheduling Order”) to grant them an additional thirty days to answer, move or otherwise respond to the Newby plaintiffs’ Consolidated Complaint for Violation of the Securities Laws (the “Newby Complaint”). CSFB, Citigroup (and its subsidiary, Salomon Smith Barney, Inc.), Merrill Lynch, and J. P. Morgan Chase respectfully request the same extension to respond to the Tittle plaintiffs’ First Consolidated and Amended Complaint (the “Tittle Complaint”) (collectively with the Newby Complaint, the “Consolidated Complaints”). The Scheduling Order required plaintiffs to file the Consolidated Complaints by April 8, 2002, and requires defendants to answer, file motions to dismiss or otherwise respond by May 8, 2002.²

Bank of America was not served with the Newby Complaint, which named it as a defendant in this case for the first time, until April 10, 2002. The allegations in the 503-page complaint are factually complex. For example, the allegations specific to Bank of America relate to at least eleven different securities offerings and seven debt transactions for Enron and Enron-related entities over a six year period. (Newby Complaint ¶¶ 776-79).³ Unlike many of the defendants who have been in this case since its inception on October 22, 2001, almost six months ago, Bank of America’s attorneys have not had the opportunity to review all of the relevant documents and consult at length with their client. It will take them some time to gather and review the written instruments underlying these offerings and transactions (*e.g.*, registration

¹ Counsel for Defendant Lehman Brothers Holding, Inc. (“Lehman Brothers”) has advised counsel for Bank of America that Lehman Brothers intends to request the same relief from the Court.

² Bank of America, Barclays, CIBC, and Deutsche Bank are named only in the Newby Complaint.

³ Moreover, the Newby Complaint also refers to a dozen reports that analysts affiliated with Bank of America allegedly issued. (Newby Complaint ¶ 776).

statements, prospectuses, underwriting agreements, comfort letters, analysts reports, etc.), and to identify and interview the individuals involved before they are able to adequately respond to the Newby Complaint.

CSFB was named as a defendant in both of the Consolidated Complaints for the first time when those complaints were filed on April 8. CSFB was served with an unsigned copy of the Tittle Complaint on April 8, 2002, and was served with the Newby Complaint on April 10, 2002. Together, the Consolidated Complaints--which assert securities, racketeering and state law conspiracy causes of action against CSFB--comprise more than 800 pages in length (503 pages for the Newby Complaint and 301 for the Tittle Complaint), and rely on nearly 350 separate documents.⁴ The allegations specific to CSFB and Donald, Lufkin & Jenrette ("DLJ", which, prior to its merger with CSFB in November 2000, had separate interactions with Enron), encompass numerous public offerings, merger and acquisition transactions, loans and derivative transactions over a period of nearly ten years. (Tittle Complaint ¶¶ 623-27, 632; Newby Complaint ¶¶ 696-703, 705-06). The complaints also allege CSFB and DLJ's involvement in several "elaborate" Enron partnerships, including various meetings between Enron and unnamed employees of CSFB and DLJ and certain presentations allegedly attended by unnamed CSFB personnel. (Tittle Complaint ¶¶ 626-31; Newby Complaint ¶¶ 707-12). The Newby Complaint, for example, attributes specific quoted comments to unnamed CSFB personnel at unspecified meetings with Enron in June and July 2001. (Newby Complaint ¶¶ 622, 709-11). Moreover, the complaints make additional allegations related to a CSFB analyst's coverage of Enron in the public sector, and challenge CSFB's internal procedures for shielding its analysts from non-

⁴ At the same time it is preparing to respond to the Consolidated Complaints, CSFB is also cooperating in various other governmental investigations related to Enron. CSFB has also been named in several other complaints relating to Enron in other jurisdictions to which it must respond.

public information. (Tittle Complaint ¶¶ 633-35; Newby Complaint ¶ 704). Since first receiving and reading the Consolidated Complaints last week, counsel for CSFB have begun to digest the nearly 2,000 paragraphs of allegations and commenced the intensive work (including identifying, collecting and reviewing the relevant documents and identifying, contacting and interviewing the individuals with relevant knowledge) necessary to respond to the Consolidated Complaints, but it is readily apparent that 30 days will not be sufficient⁵.

The other financial institutions joining this motion face similar difficulties in responding to the Newby and/or Tittle complaints.

Deutsche Bank was named as a defendant in this case for the first time when it was served with the Newby Complaint on or about April 9. The allegations against Deutsche Bank are factually complex, raising issues relating to at least eleven transactions spanning more than four years, and as to analyst reports covering over a three year period. Unlike some of the other defendants in these cases, Deutsche Bank has not been named in any other Enron-related actions, and therefore, has not had an opportunity to review in any detail the voluminous allegations contained in the Newby Complaint.

Bank of America, CSFB, Barclays, CIBC, Citigroup, Deutsche Bank, Merrill Lynch and J. P. Morgan Chase are mindful of this Court's Order of February 28 and its admonition that it must run this case efficiently, expeditiously and fairly. Bank of America, CSFB, Barclays, CIBC, Citigroup, Deutsche Bank, Merrill Lynch and J. P. Morgan Chase share

⁵ J.P. Morgan was also named as a defendant in both actions for the first time last week. It was served with the Newby Consolidated Complaint on or about April 9 and the Tittle Consolidated Complaint on or about April 11. As described in more detail above, the more than 800 pages of allegations concern a great number of public offerings, credit arrangements and other transactions, many alleged to have involved J.P. Morgan, over a long period of time. The complaints also involve allegations concerning more than 20 analyst reports alleged to have been authored by J.P. Morgan issued over a two-and-a-half year period. Although J.P. Morgan is working diligently to digest and analyze the allegations contained within the complaints, more than 30 days will be necessary to accomplish this task.

the Court's objectives, but believe that fairness requires that they be given a brief additional period of time to conduct their factual investigations and prepare their responsive pleadings. Reviewing and digesting the Consolidated Complaints in itself takes a number of days.

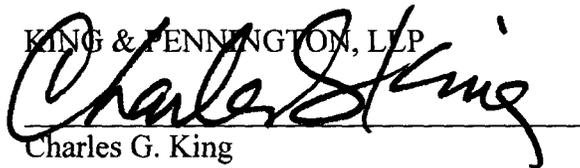
Under the circumstances outlined above, there is good cause to grant Bank of America, CSFB, Barclays, CIBC, Citigroup, Deutsche Bank, Merrill Lynch and J. P. Morgan Chase a brief extension to respond to the Consolidated Complaints. Doing so will not delay the progress of the litigation and is in the interest of justice.

For these reasons, Bank of America, CSFB, Barclays, CIBC, Citigroup, Deutsche Bank, Merrill Lynch and J. P. Morgan Chase respectfully request that the Court extend their deadline to respond to the Newby Complaint and the Tittle Complaints (respectively) by thirty days, making the responses due on or before June 7, 2002.

Dated: April 16, 2002

Respectfully submitted,

KING & PENNINGTON, LLP



Charles G. King
State Bar No. 11470000
711 Louisiana Street, Suite 3100
Houston, Texas 77002
Telephone: (713) 225-8404
Facsimile: (713) 224-8488

Attorneys for Defendant Bank of America Corp.

OF COUNSEL:

BROBECK, PHLEGER & HARRISON LLP

Gregory A. Markel
Ronit Setton
Nancy I. Ruskin
1633 Broadway, 47th Floor
New York, New York 10019
Telephone: (212) 581-1600

Attorneys for Defendant Bank of America Corp.

CRAVATH, SWAINE & MOORE

Richard W. Clary
Julie A. North
Worldwide Plaza
825 Eighth Avenue
New York, New York 10019
Telephone: (212) 474-1000

Attorneys for Defendant Credit Suisse First Boston Corporation

PAUL, WEISS, RIFKIND, WHARTON & GARRISON

Brad S. Karp
Mark F. Pomerantz
Richard A. Rosen
1285 Avenue of the Americas
New York, New York 10019-6064
Telephone: (212) 373-3000

Attorneys for Defendant Citigroup, Inc.

WHITE & CASE LLP

Lawrence Byrne
Owen C. Pell
Lance Croffoot-Suede
1155 Avenue of the Americas
New York, New York 10036-2787
Telephone: (212) 819-8200

Attorneys for Defendant Deutsche Bank AG

SULLIVAN & CROMWELL

David H. Braff
125 Broad Street
New York, New York 10004
Telephone: (212) 558-4000

Attorneys for Defendant Barclays PLC

MAYER, BROWN, ROWE & MAW

Alan N. Salpeter
Michele Odorizzi
T. Mark McLaughlin
190 South LaSalle Street
Chicago, Illinois 60603
Telephone: (312) 782-0600

Attorneys for Defendant Canadian Imperial Bank of Commerce

HICKS THOMAS & LILIENSTERN, LLP

Taylor M. Hicks
State Bar No. 09585000
700 Louisiana, Suite 1700
Houston, Texas 77002
Telephone: (713) 547-9100

Attorneys for Merrill Lynch & Co., Inc.

SIMPSON THACHER & BARTLETT

Thomas C. Rice
Bruce D. Angiolillo
425 Lexington Avenue
New York, New York 10017
Telephone: (212) 455-2000

JENKINS & GILCHRIST

Charles A. Gall
1445 Ross Avenue, Suite 3200
Dallas, Texas 75202-2799
Telephone: (214) 855-4500

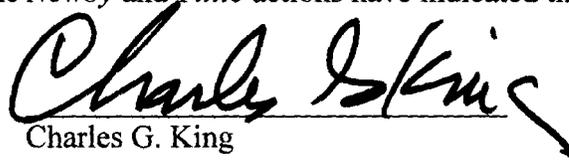
MITHOFF & JACKS, L.L.P.

Richard Warren Mithoff
Penthouse, 3450 One Allen Center
Houston, Texas 77002
Telephone: (713) 654-1122

Attorneys for Defendant J.P. Morgan Chase & Co.

CERTIFICATE OF CONFERENCE

Plaintiffs' counsel in both the *Newby* and *Tittle* actions have indicated that they would not agree to this Motion.


Charles G. King

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on the 16th day of April, 2002, a true and correct copy of the foregoing motion was served on all counsel pursuant to the Court's April 10, 2002 Order.


Charles G. King