



AMERICAN CIVIL LIBERTIES UNION FUND
OF THE NATIONAL CAPITAL AREA

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1400 - 20TH STREET, NW, SUITE 119, WASHINGTON, DC 20036-5920 / 202 457-0800

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COMMENT

February 4, 1999

Jean A. Webb
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Exemption from Registration
as a Commodity Trading Advisor

Dear Ms. Webb:

The American Civil Liberties Union of the National
Capital Area files these comments in response to the
proposed rulemaking published at 64 Fed. Reg. 68304
(December 7, 1999).

We urge the Commission to adopt the proposed new
17 CFR § 4.14(a)(9), because we think the registration
exemption that would be provided by that new subsection
is required by the First Amendment to the U.S. Constitu-
tion, for the reasons explained in Judge Urbina's cogent
opinion in Taucher v. Born, 53 F.Supp.2d 464 (D.D.C.
1999). We also agree that, as a matter of good policy,
the Commission should strive to minimize the regulatory
impact on speech that is not deceptive or misleading.

Without commenting in detail on the four issues
mentioned in Section IV of the notice, our view is that
the Commission ought to be very hesitant before imposing
any requirements, such as training or recordkeeping, on
persons who do nothing more than publish their views for
others to act on if and as they wish. We do not, for
example, understand on what basis such a person could be
required to open his or her books and records to the
Commission, in the absence of a court order based on
specific allegations of unlawful conduct.

Respectfully,

[Handwritten signature]

Arthur B. Spitzer
Legal Director

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