

March 14th, 2016

Brent J. Fields
Secretary
U.S. Securities and Exchange Commission
100 F Street N.E.
Washington, D.C. 20549-0609

Re: Release No. 34-75925; File No. 10-222; Investors' Exchange, LLC;
Notice of Filing of Application, as Amended, for Registration as a National
Securities Exchange under Section 6 of the Securities Exchange Act of
1934

Mr Fields:

I appreciate the opportunity to comment anonymously on the Investors' Exchange, LLC ("IEX," the "Exchange," or the "Company") application for registration as a national securities exchange in the original and numerous amended revisions¹²³⁴⁵. IEX seeks to operate a national securities exchange and also continue to operate a broker-dealer that provides order-routing services. They have claimed and continue to claim in various media and their website that they are uniquely beneficial to investors⁶. In fact, IEX principals and publications frequently purport that the Company is "dedicated to investor protection,"⁷⁸ which, incidentally, is never clearly explicated.

My first concern with the Company's proposition is that it has never been proven using historical data, simulations, modeling, or other methods. IEX has described in great detail a system which

¹ Original application available at <https://www.sec.gov/rules/other/2015/investors-exchange-form-1.htm>.

² First amendment available at <https://www.sec.gov/rules/other/2015/investors-exchange-form-1-execution-amendment-1.pdf>.

³ Second amendment and cover letter available at <https://www.sec.gov/comments/10-222/10222-420.pdf>.

⁴ Third amendment and cover letter available at <https://www.sec.gov/comments/10-222/10222-432.pdf>.

⁵ Fourth amendment and cover letter available at <https://www.sec.gov/comments/10-222/10222-437.pdf>.

⁶ See, e.g., Scott Patterson and Kirsten Grind, Mutual Funds Promised Haven From Speedsters, *The Wall Street Journal* (May 23, 2012), available at <http://online.wsj.com/article/SB10001424052702304065704577422583959529066.html>. Other examples available at <https://iextrading.com/about/press/>.

⁷ <https://iextrading.com/about/>.

⁸ Cf. 15 U.S.C. § 78c(a)(27).

could theoretically discourage particular kinds of high-frequency trading behavior⁹, but, to my knowledge, no proof of the the efficaciousness of that system has ever been disclosed to the public. The Commission may have data which support IEX’s claims; if so, I respectfully encourage the commission to release such data for public review. To the contrary, independent analyses have found that the current implementation of the IEX ATS may perform worse than its peers for specific order types¹⁰¹¹. The possibility remains that IEX as an ATS does, and IEX as an exchange would, protect investors in a heretofore undisclosed manner. The Company and its principals have been extraordinarily outspoken about their assertions relating to investor protection, but concrete proof has not been forthcoming. This stance is unfortunately contrary to the Company’s additional claims about “transparency”¹².

My second concern relates to the multiple proposals for the structure of the Exchange which have been presented so far. The originally proposed architecture of the Exchange and the associated broker-dealer’s router placed a 350- μ s delay (variously referred to as the “POP,” “magic shoebox,” “speed bump,” etc.) between the router and other exchanges and no such delay between the router and the Exchange matching engine¹³. This design was defended in the media¹⁴ throughout February of this year and in a comment letter submitted to the Commission¹⁵. Explicitly, IEX asserted “IEX’s Router is not subject to the speed bump to *ensure that IEX’s Router is not subject to electronic front running* when routing to other exchanges on behalf of our clients” (original emphasis)¹⁶. The most recently proposed architecture, however, places the 350- μ s delay between the router and the Exchange matching engine and no such predefined delay between the router and other exchanges¹⁷. This design has also been defended in the media over the last two weeks¹⁸ and in a comment letter submitted to the

⁹ See, e.g., <https://iextrading.com/trading/trueprice/>.

¹⁰ See, e.g., <https://www.sec.gov/comments/10-222/10222-394.pdf> (Markit comment letter dated Feb. 16, 2016) and attendant citations.

¹¹ Accord <https://www.sec.gov/comments/10-222/10222-411.pdf> (Citadel comment letter dated Feb. 23, 2016).

¹² See e.g. <https://iextrading.com/>; <https://iextrading.com/about/>.

¹³ Supra notes 1 and 2.

¹⁴ See, e.g., Jared Meyer, Regulators Protect High-Frequency Traders, Ignore Investors (an Interview with Brad Katsuyama), *Forbes* (Feb. 23, 2016), available at <http://www.forbes.com/sites/jaredmeyer/2016/02/23/sec-should-stand-up-for-small-investors>.

¹⁵ See <https://www.sec.gov/comments/10-222/10222-380.pdf> (IEX comment letter dated Feb. 9, 2016).

¹⁶ Id. at page 3.

¹⁷ Supra notes 4 and 5.

¹⁸ See, e.g., Annie Massa, IEX Adjusts Exchange Application to Circumvent Key Objection, *Bloomberg Business* (Feb. 29, 2016), available at <http://www.bloomberg.com/news/articles/2016-02-29-flash-boys-exchange-offers-fix-for-key-objection-from-critics>.

Commission¹⁹ wherein IEX asserts that “[they] do not believe that this modification will have any adverse impact on the performance of the IEX Router” and that “[the new design] does not jeopardize our primary goal of investor protection”²⁰. I respectfully encourage the Commission to insist upon clarification of these seemingly contradictory assertions. Surely one of the proposed designs is better than the other, although no objective evidence has been offered to the public in either case. If IEX has chosen the lesser architecture, claims about their dedication to investor protection should be reevaluated.

Taken together these concerns cast an unfavorable impression of IEX’s integrity, transparency, and consistency in dealing with the public and perhaps with the Commission as well. Similar concerns have been raised by others²¹²²²³. While IEX publicly claims to advocate investor protection and transparency, both of which are certainly noble goals, it is difficult to see these principles’ influence on their currently operating ATS and on the various iterations of their exchange application. Although there is a public upswell of support for the Exchange’s application, the investing public may have been misled by the Company’s unproven claims, assertions, and overall media presence.

Respectfully and anonymously submitted.

¹⁹ See <https://www.sec.gov/comments/10-222/10222-421.pdf> (IEX comment letter dated Feb. 29, 2016).

²⁰ Id. at page 2.

²¹ See, e.g., <https://www.sec.gov/comments/10-222/10222-387.pdf> (BATS comment letter dated Feb. 11, 2016).

²² Accord <https://www.sec.gov/comments/10-222/10222-350.pdf> (Nasdaq comment letter dated Jan. 29, 2016).

²³ Accord <https://www.sec.gov/comments/10-222/10222-19.pdf> (NYSE comment letter dated Nov. 12, 2015).