Congress of the United States
Washington, DC 20515

September 14, 2022

Mr. Stephen Squeri
Chief Executive Officer
American Express, Inc.
200 Vesey Street,
New York, New York 10285

Mr. Squeri,

We write you today with grave concern regarding your implementation of a new firearm-specific Merchant Category Code (MCC). This implementation follows an equally concerning decision by the International Organization for Standardization (ISO) to create this MCC, which is an assault on the Second Amendment rights of law-abiding American citizens.

As you know, the ISO uses four-digit codes known as MCCs to classify merchants and businesses by the type of goods or services provided. There were already two MCCs that captured legal firearm sales, 5999 for Miscellaneous Retail Stores and 5941 for Sporting Goods Stores. In July 2021, Amalgamated Bank applied for this firearm-specific MCC, but the ISO's internal Registration and Maintenance Management Group denied the initial application as well as its follow-up appeal in October and November of 2021, respectively. Following these denials, the ISO stated a new code would fail to capture sales at sporting goods stores and would unduly burden smaller firearm retailers.[1]

It has been widely reported that American Express, MasterCard, and Visa did not support this application. Specifically, Visa recently stated that they "believe that asking payment networks to serve as a moral authority by deciding which legal goods can or cannot be purchased sets a dangerous precedent."[2] We could not agree more.

Amalgamated Bank again applied for creation of a new MCC in June 2022. The ISO recently announced its unfortunate decision to create a firearm-specific code in apparent submission to the desires of liberal activists and politicians who seek to erode the Second Amendment rights of law-abiding American citizens. Amalgamated Bank stated its intent to utilize software to flag allegedly suspicious purchases made by Americans exercising their Second Amendment rights and file these red flags with law enforcement.[3]

This sentiment mirrors public statements from a myriad of liberal politicians who see this action

[1] https://www.cbsnews.com/news/credit-card-companies-gun-sales-congress-letters/
[2] https://www.cbsnews.com/news/credit-card-sales-of-guns-and-ammo-merchant-codes/
[3] https://www.cbsnews.com/news/credit-card-companies-gun-sales-congress-letters/

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as a first step towards further infringing on law-abiding United States citizens utilizing their Constitutional right to bear arms. Especially concerning was New York Attorney General Letitia James' statement that, "Credit card companies must now take the next step and flag suspicious transactions on gun and ammunition sales."[4]

Of course, there is no accepted, consistent, scientific, or legitimate way to determine from this data what is and what is not a "suspicious" purchase. A gun control advocate could view any desire to own or obtain a firearm as per se suspicious. Instead, this is a transparent attempt to chill the exercise of constitutionally protected rights and to circumvent existing legal restrictions on the creation of firearm registries by the government.

As you have announced your intent to implement this new code, we request you provide answers to the following questions:

1. Does American Express support the recent decision by the ISO to create a unique MCC for firearm retailers? If so, what was the reason for changing your view, as it was widely reported you opposed Amalgamated Bank's twice denied initial application in 2021?

2. What criteria will American Express utilize to flag transactions? How were these criteria devised, and what evidence, if any, is there that they will effectively focus only on criminal intent and not on purchases – including high dollar or high-volume purchases made for entirely lawful and legitimate reasons? Will American Express publish for the public and their card users the criteria used to flag so-called suspicious activity?

3. How will American Express inform consumers on the impacts of this implementation? Does American Express plan to notify and solicit feedback from consumers during this process?

4. Will American Express notify customers when their lawful transactions have been flagged and sent to law enforcement? If not, why does American Express not believe this notification is important to the consumer?

5. Has your company considered the reputational risks and the possible implications for your fiduciary duties to shareholders of potentially angering or alienating a large percentage of America's more than 100 million gun owners or the millions more who wish to purchase or own firearms without being subject to intrusive surveillance or registration?

6. Are you aware that federal law contains multiple restrictions on the creation of a national firearm registry and that this move by your company could be perceived as a bad faith attempt to circumvent those restrictions?

7. Did you solicit any input from experts in the firearm industry or from any Second Amendment

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[4] https://twitter.com/NewYorkStateAG/status/1568338548100587521?s=20&t=w4UzpSI9ZiaVIE6TGiheyA

advocacy groups before making this decision to help determine its impact on lawful commercial activity and the exercise of constitutional rights?

8. Are you aware of data compiled by the U.S. Department of Justice showing that only a very small percentage of criminals who illegally use firearms obtain those firearms directly from the sorts of federally licensed dealers who will be subject to this new MCC? Did you consider this data or do other independent due diligence before moving forward with this effort?

We look forward to your timely response to this important matter.

Sincerely,

Elise M. Stefanik
Member of Congress

Jefferson Van Drew
Member of Congress

Carol D. Miller
Member of Congress

Markwayne Mullin
Member of Congress

Doug Lamborn
Member of Congress

Doug LaMalfa
Member of Congress

Kevin Hern
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Paul A. Gosar, D.D.S.
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Richard Hudson
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Diana Harshbarger
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David B. McKinley, P.E.
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Troy Nehls
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Bob Gibbs
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Eric A. "Rick" Crawford
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Dan Bishop
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H. Morgan Griffith
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Gus. M. Bilirakis
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Tom Rice
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Randy Feenstra
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Kat Cammack
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Robert J. Wittman
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Mary E. Miller
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Roger Williams
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Mike Kelly
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Bruce Westerman
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Ronny L. Jackson
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Randy Weber
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Brian Mast
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Andrew Clyde
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Lauren Boebert
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Burgess Owens
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Chris Stewart
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Michael Guest
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