

## **Report on Company's Stance on New Merchant Category Code**

Submitted by New York City Comptroller Brad Lander on behalf of certain New York City Retirement Systems

RESOLVED: Shareholders request the American Express Company Board of Directors issue a public report, omitting proprietary and privileged information, concerning its oversight of management's decision-making regarding any application to the International Standards Organization (ISO) to establish a merchant category code (MCC) for standalone gun and ammunition stores. This report should cover American Express' governance of MCC standards, as well as disclose and explain the justification for its position on any applications to create an MCC for gun and ammunition stores.

### **Supporting Statement**

Mass shootings are a significant societal problem. In 2022, there were 432 mass shootings through August 2022.<sup>1</sup>

As a financial institution, American Express must ensure its systems are not used for criminal purposes. A new MCC for gun and ammunition stores would allow banks to comply with their regulatory obligation to report suspicious purchasing activity associated with illegal activity<sup>2</sup>, and credit card companies would be able to voluntarily file this information under existing reporting systems. This could be accomplished *without limiting or regulating gun sales or creating any additional burden to internal systems*.

Suspicious activity could include gun sales associated with diversion from legal to illegal markets, and purchasing behavior associated with mass shootings. Failure to act could lead to regulatory and reputational risk, including reputational risk associated with costly litigation.

Suspicious purchasing activity that could constitute reportable suspicious activity might involve the frequency and size of purchases, and the type of retailer. For example, the Aurora, Colorado movie theatre shooter used a Mastercard issued to purchase \$11,000 worth of weapons and military gear in the six weeks, including purchases at two standalone gun stores.<sup>1</sup> One week before the mass shooting at the Pulse Nightclub, in which 49 people were killed and 50 injured, the shooter used an American Express (among others) to purchase more than \$26,000 worth of guns and ammunition, including purchases at a stand-alone gun retailer.<sup>2</sup>

An application to create an MCC for gun and ammunition stores was twice denied. It has been reported that American Express pushed back on the application and that "credit card industry employees were part of an internal committee within ISO that recommended the application's rejection."<sup>3</sup>

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Shareholders would benefit from transparency on how American Express' Board of Directors is overseeing any final position taken on any MCC application for standalone gun and ammunition stores, and whether American Express is appropriately considering the risks inherent in failing to take action to report suspicious purchasing activity at these retailers.

We believe that failure to do so will result in lost lives, as well as regulatory, reputational, and litigation risks that may threaten long-term shareholder value.

We urge you to vote FOR this proposal.

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<sup>1</sup> <https://www.gunviolencearchive.org/>

<sup>2</sup> <https://www.law.cornell.edu/cfr/text/31/1020.320#:~:text=31%20CFR%20%C2%A7%201020.320%20-%20Reports%20by%20banks,%C2%A7%201020.320%20Reports%20by%20banks%20of%20suspicious%20transactions.>

<sup>3</sup> <https://www.cbsnews.com/news/bank-credit-cards-suspect-gun-ammo-sales/>