

Congress of the United States

Washington, DC 20515

December 6, 2023

John B. Owen
Interim Chief Executive Officer and President
Discover Financial Services
2500 Lake Cook Road
Riverwoods, IL 60015

Dear Mr. Owen:

We write to express our disappointment that Discover has reportedly paused its work to implement a new merchant category code (MCC) that categorizes firearm and ammunition retailers.¹ We request that you resume this work and quickly implement the new firearm retailer MCC. We also ask that you provide us with information to understand Discover's hesitation to take this particular course of action to help prevent gun trafficking, gun violence, and domestic terrorism.

Between 2015 and 2022, more than 3,000 mass shootings in the United States injured or killed over 19,000 people.² Over 600 mass shootings have occurred since the start of this year alone.³ Credit cards often facilitate the purchase of the weapons used to commit this violence: in multiple high-profile mass shootings over the past decade, shooters bought tens of thousands of dollars' worth of firearms and ammunition by financing their purchases with credit cards — including in cases where the shooter could not have otherwise afforded the firearms.⁴

Under federal law, national banks are required to submit suspicious activity reports (SARs) of certain transactions they suspect are related to criminal activity.⁵ Despite the fact that banks routinely identify and report suspicious transactions and criminal activity, such as reporting stolen credit cards and fraudulent purchases, they previously did not have the information necessary to report suspicious patterns of purchases from firearm and ammunition retailers.⁶

¹ Reuters, "Amex, Mastercard, Visa pause work on new firearms merchant code," Ross Kerber, March 9, 2023, <https://www.reuters.com/business/finance/mastercard-pause-work-new-payments-code-firearms-sellers-2023-03-09/>.

² Everytown Research & Policy, "Mass Shootings in the United States," March 2023, <https://everytownresearch.org/mass-shootings-in-america/>; see also Pew Research Center, "What the data says about gun deaths in the U.S.," John Gramlich, April 26, 2023, <https://www.pewresearch.org/short-reads/2023/04/26/what-the-data-says-about-gun-deaths-in-the-u-s/>.

³ Gun Violence Archive, "Gun Violence Archive 2023," November 15, 2023, <https://www.gunviolencearchive.org/>.

⁴ The New York Times, "How Banks Unwittingly Finance Mass Shootings," Andrew Ross Sorkin, December 24, 2018, <https://www.nytimes.com/interactive/2018/12/24/business/dealbook/mass-shootings-credit-cards.html>.

⁵ See e.g., 12 C.F.R. §21.11.

⁶ *Id.*; CBS News, "This bank wants to track suspect credit card sales of guns and ammo. Why can't it?" Jim Axelrod, Clare Hymes, and Michael Kaplan, June 20, 2022, <https://www.cbsnews.com/news/bank-credit-cards-suspect-gun->

But in September 2022, the International Organization for Standardization (ISO) approved the creation of a new MCC — a four-digit code that classifies merchants by their purpose of business⁷ — specifically for firearm and ammunition retailers.⁸ This firearm retailer-specific MCC empowers financial institutions to monitor and flag suspicious transactions for law enforcement to preempt possible gun crimes.⁹ A number of credit card companies initially pushed back on an application to the ISO to create an MCC for firearm and ammunition retailers¹⁰ — a stance that Senator Warren urged them to reverse.¹¹ Subsequently, Discover announced that it would adopt the new MCC.¹²

However, reports from March 2023 revealed that Discover was “removing the new merchant category code” to “continue alignment . . . with the industry,” as peer credit card companies paused implementation of the MCC.¹³ The companies cited proposed state legislation restricting use of the MCC as the rationale for this decision.¹⁴ Since then, conflicting state laws have emerged: one state has passed legislation requiring the use of a firearm-specific MCC,¹⁵ while some others have enacted legislation prohibiting it.¹⁶ Thus, it is impossible for Discover to

[ammo-sales/](#).

⁷ Investopedia, “Merchant Category Codes (MCC): Definition, Purposes, and Examples,” Julia Kagan, August 17, 2023, <https://www.investopedia.com/terms/m/merchant-category-codes-mcc.asp>.

⁸ Reuters, “Global standards body approves new merchant code for gun sellers,” Ross Kerber, September 9, 2022, www.reuters.com/world/Exclusive-global-standards-body-approves-new-merchant-code-gun-sellers-2022-09-09/.

⁹ The Wall Street Journal, “Banks, Credit-Card Companies Explore Ways to Monitor Gun Purchases,” AnnaMaria Andriotis, Telis Demos, and Emily Glazer, April 30, 2018, <https://www.wsj.com/articles/banks-card-companies-explore-ways-to-monitor-gun-purchases-1525080600>.

¹⁰ CBS News, “This bank wants to track suspect credit card sales of guns and ammo. Why can’t it?” Jim Axelrod, Clare Hymes, and Michael Kaplan, June 20, 2022, <https://www.cbsnews.com/news/bank-credit-cards-suspect-gun-ammo-sales/>.

¹¹ Letters from Senator Warren and Representative Dean, et al. to American Express, Visa, and Mastercard, September 1, 2022, [https://www.warren.senate.gov/imo/media/doc/combinepdf%20\(2\).pdf](https://www.warren.senate.gov/imo/media/doc/combinepdf%20(2).pdf).

¹² Reuters, “Exclusive: Discover to enable tracking of purchases at gun retailers from April,” Ross Kerber, February 18, 2023, <https://www.reuters.com/business/discover-enable-tracking-purchases-gun-retailers-april-2023-02-17/>.

¹³ Payments Dive, “Amex follows rivals in ditching gun code,” Caitlin Mullen, March 9, 2023, <https://www.paymentsdive.com/news/card-companies-halt-gun-code-plans-payments-visa-mastercard-amex-discover/644598/>.

¹⁴ *Id.*; Bloomberg News, “Visa, Mastercard Pause Work on Code Aimed at Tracking Gun Purchases,” Jennifer Surane, March 9, 2023, <https://www.bloomberg.com/news/articles/2023-03-09/visa-mastercard-pause-work-on-code-aimed-at-gun-purchases>.

¹⁵ Payments Dive, “States split over gun merchant category code,” Caitlin Mullen, October 2, 2023, <https://www.paymentsdive.com/news/state-laws-gun-merchant-category-code-visa-mastercard-amex-discover/695118/>; Firearms Merchant Category Code, AB-1587 (California), https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB1587; Office of Governor Gavin Newsom, “Governor Newsom Strengthens California’s Nation-Leading Gun Safety Laws,” press release, September 26, 2023, <https://www.gov.ca.gov/2023/09/26/governor-newsom-strengthens-californias-nation-leading-gun-safety-laws/>; Sierra Sun Times, “Governor Gavin Newsom Signs Assemblymember Phil Ting’s Bill That Helps Flag Suspicious Gun & Ammunition Sales in California,” September 28, 2023, <https://goldrushcam.com/sierrasuntimes/index.php/news/local-news/50014-governor-gavin-newsom-signs-assemblymember-phil-ting-s-bill-that-helps-flag-suspicious-gun-ammunition-sales-in-california>.

¹⁶ *See, e.g.*, Sales of Firearms and Ammunition, S.B. 214 (Florida), <https://www.flsenate.gov/Session/Bill/2023/214/BillText/er/PDF>; Second Amendment Financial Privacy Act, H.B. 1110 (Mississippi), <https://legiscan.com/MS/text/HB1110/2023>; Second Amendment Financial Privacy Act, H.B. 2837 (Texas), <https://capitol.texas.gov/tlodocs/88R/billtext/pdf/HB02837F.pdf#navpanes=0>; Second Amendment

comply with all state laws on this topic. Discover should instead take direction from federal guidance, which says credit card companies should “assign[] *proper* Merchant Category Codes (MCC),” particularly for high-risk merchants,¹⁷ and that banks should have an “adequate understanding of the merchant’s business to ensure that it is classified under the merchant category code” before serving the merchant.¹⁸ This directive to assign an accurate MCC arguably conflicts with state laws that prohibit the use of the firearm-specific MCCs for firearm transactions. Given this landscape of state and federal law, Discover should, at a minimum, implement the MCC in all states where it remains legal. There is no legal or technical rationale for Discover’s failure to do so; credit card companies routinely implement different MCCs in different jurisdictions for the same type of transaction based on variations in local law, such as for cannabis and gambling.¹⁹

The need for Discover to implement this MCC is urgent. Since Discover’s pause on implementing the MCC, mass shootings have occurred at an elementary school in Nashville, Tennessee, a mall in Allen, Texas, locations across Lewiston, Maine — and hundreds of other locations.²⁰ Indeed, 2023 is on track to see the highest number of mass shootings in recent American history.²¹

The financial industry is uniquely positioned to identify suspicious transactions that could help prevent the next mass shooting in this country.²² For example, one shooter used credit cards to purchase close to \$20,000 in firearms, ammunition, and accessories just days before

Financial Privacy Act, H.B. 2004 (West Virginia), https://www.wvlegislature.gov/Bill_Status/bills_history.cfm?INPUT=2004&year=2023&sessiontype=RS; see also Reuters, “US Republicans aim to stymie gun sale codes at state level,” Ross Kerber, March 3, 2023, <https://www.reuters.com/world/us/us-republicans-aim-stymie-gun-sale-codes-state-level-2023-03-03/>.

¹⁷ Federal Deposit Insurance Corporation, “Merchant Processing,” March 2007, p. 172, https://www.fdic.gov/regulations/examinations/credit_card/pdf_version/ch19.pdf (emphasis added).

¹⁸ Office of the Comptroller of the Currency, “Merchant Processing,” August 2014, p. 23, <https://www.occ.treas.gov/publications-and-resources/publications/comptrollers-handbook/files/merchant-processing/index-merchant-processing.html>. Cf. Federal Financial Institutions Examination Council, “Bank Secrecy Act/Anti-Money Laundering Examination Manual,” 2014, https://bsaaml.ffiec.gov/docs/manual/BSA_AML_Man_2014_v2_CDDBO.pdf (noting heightened risks when a “processor does not perform adequate due diligence on the merchants for which they are originating payments,” *id.* at 236).

¹⁹ See, e.g., Visa, “Visa Merchant Data Standards Manual,” April 2023, pp. 22, 73, 74, <https://usa.visa.com/content/dam/VCOM/download/merchants/visa-merchant-data-standards-manual.pdf>; Mastercard, “Quick Reference Booklet—Merchant Edition,” November 15, 2018, p. 113, 177, <https://www.mastercard.us/content/dam/mccom/en-us/documents/rules/quick-reference-booklet-merchant-edition.pdf>.

²⁰ *The New York Times*, “Maine Mass Shooting Is America’s 8th, and Deadliest, This Year,” Adeel Hassan, October 26, 2023, <https://www.nytimes.com/2023/10/26/us/mass-shootings-this-year-maine.html>; Gun Violence Archive, “Mass Shootings in 2023,” last viewed November 17, 2023, <https://www.gunviolencearchive.org/reports/mass-shooting>.

²¹ Forbes, “U.S. Surpasses 600 Mass Shootings This Year—Nearing Record Levels,” Amy Faguy, November 14, 2023, <https://www.forbes.com/sites/anafaguy/2023/11/14/us-surpasses-600-mass-shootings-this-year-nearing-record-levels/?sh=57ba22e43328>; Gun Violence Archive, “Gun Violence Archive 2023,” November 16, 2023, <https://www.gunviolencearchive.org/>.

²² *The New York Times*, “How Banks Unwittingly Finance Mass Shootings,” Andrew Ross Sorkin, December 24, 2018, <https://www.nytimes.com/interactive/2018/12/24/business/dealbook/mass-shootings-credit-cards.html>.

murdering 49 people and wounding 53 others at the Pulse nightclub in Orlando, Florida.²³ In another case, a shooter charged \$11,000 in weapons and military accessories to his credit card within weeks of killing 12 and injuring 70 at a movie theater in Aurora, Colorado.²⁴ It is likely that, if a firearm and ammunition retailer MCC had been operational at the time of those mass shootings, the uncharacteristically large sums spent on credit cards at firearm retailers within a short time span would have been recognized as suspicious and could have been flagged for law enforcement.²⁵

Discover already has the processes in place to detect crimes such as money laundering and financial support for terrorist organizations. Given that Discover has the capacity to implement the firearm and ammunition retailer MCC and flag suspicious patterns of purchases, its pause in adoption of this MCC signals an unwillingness to address your company's role in financing gun trafficking, gun violence, and acts of domestic terrorism. In light of your explanation for "removing the new merchant category code,"²⁶ we are disappointed that Discover appears to have buckled under political pressure from the gun lobby and backtracked on its commitments to implement the firearm and ammunition retailer MCC to help report suspected criminal activity, improve public safety, reduce the threat of gun violence, and protect our children and communities.²⁷

To understand Discover's reasons behind this pause, we request that you send us responses to the following questions by January 12, 2024:

1. Does Discover support the implementation of the new MCC for standalone firearm retailers? Please explain why or why not.
2. Does Discover utilize all MCCs issued by the ISO? If not, please identify which are not currently utilized and explain when that decision was made and why.
3. Press reports indicate that Discover cited proposed state bills as the reason for why it decided to pause implementation of the MCC for firearm and ammunition retailers.²⁸ Are these reports accurate? Please explain how and why Discover came to the decision to pause the implementation of the firearm and ammunition retailer MCC.

²³ *Id.*

²⁴ *Id.*

²⁵ TIME, "Why This Bank CEO Likes the Gun Code That Is Making Credit Card Companies Skittish," Belinda Luscombe, March 10, 2023, <https://time.com/6252524/amalgamated-bank-gun-code-priscilla-sims-brown-interview/>.

²⁶ Payments Dive, "Amex follows rivals in ditching gun code," Caitlin Mullen, March 9, 2023, <https://www.paymentsdive.com/news/card-companies-halt-gun-code-plans-payments-visa-mastercard-amex-discover/644598/>.

²⁷ AP News, "Visa, Mastercard, AmEx to start categorizing gun shop sales," Ken Sweet, September 10, 2022, <https://apnews.com/article/gun-violence-shootings-new-york-city-politics-4aae50c67e40f9683f604a8683acc391>.

²⁸ Reuters, "Amex, Mastercard, Visa pause work on new firearms merchant code," Ross Kerber, March 9, 2023, www.reuters.com/business/finance/mastercard-pause-work-new-payments-code-firearms-sellers-2023-03-09/.

4. What progress had Discover made on implementing the new firearm and ammunition retailer MCC prior to announcing that it was “removing the new merchant category code”²⁹?
5. What was Discover’s anticipated timeline for rolling out the new firearm and ammunition retailer MCC for standalone firearm retailers prior to the previously cited announcement?
6. Will Discover implement the firearm and ammunition retailer MCC in California, in compliance with state law?
7. Will Discover implement the firearm retailer MCC in other states where it is not prohibited? If yes, what is the timeline for that?
8. What is Discover’s justification for pausing implementation of the firearm and ammunition retailer MCC in states where the MCC is not prohibited?
9. Provide examples and details of other publicly announced initiatives or business plans that Discover paused or discontinued due to the threat of state legislative action.
10. What steps is Discover taking to determine whether and how to implement the firearm and ammunition retailer MCC in states where it is prohibited by state law?
11. What steps is Discover taking to determine whether and how to implement the firearm and ammunition retailer MCC in states where it is not prohibited by state law?
12. How does Discover intend to comply with federal guidance, which says credit card companies must “assign[] proper Merchant Category Codes (MCC)” for merchants, if the company refuses to report MCC codes for firearm purchases in every state?³⁰

Sincerely,



Elizabeth Warren
United States Senator




Madeleine Dean
Member of Congress

²⁹ Payments Dive, “Amex follows rivals in ditching gun code,” Caitlin Mullen, March 9, 2023, <https://www.paymentsdive.com/news/card-companies-halt-gun-code-plans-payments-visa-mastercard-amex-discover/644598/>.

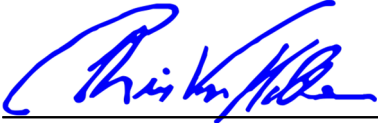
³⁰ Federal Deposit Insurance Corporation, “Merchant Processing,” March 2007, p. 172, https://www.fdic.gov/regulations/examinations/credit_card/pdf_version/ch19.pdf.



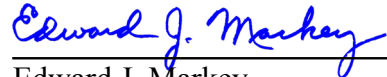
Kirsten Gillibrand
United States Senator



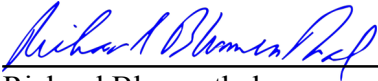
Christopher S. Murphy
United States Senator



Chris Van Hollen
United States Senator



Edward J. Markey
United States Senator



Richard Blumenthal
United States Senator



Mazie K. Hirono
United States Senator



Delia C. Ramirez
Member of Congress



Henry C. "Hank" Johnson, Jr.
Member of Congress



Eleanor Holmes Norton
Member of Congress



Adriano Espaillat
Member of Congress



Robert Garcia
Member of Congress



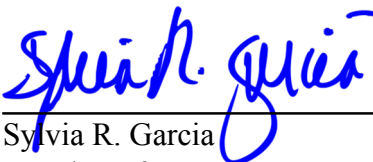
Julia Brownley
Member of Congress



Bill Pascrell, Jr.
Member of Congress



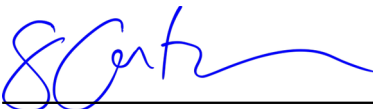
Andrea Salinas
Member of Congress



Sylvia R. Garcia
Member of Congress



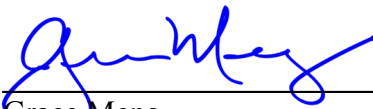
Mike Thompson
Member of Congress



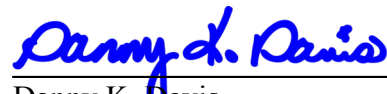
Sean Casten
Member of Congress



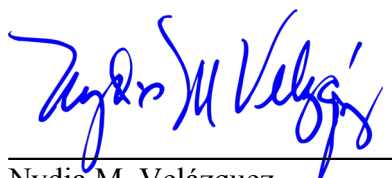
Chellie Pingree
Member of Congress



Grace Meng
Member of Congress



Danny K. Davis
Member of Congress



Nydia M. Velázquez
Member of Congress



Valerie P. Foushee
Member of Congress



Barbara Lee
Member of Congress



Jason Crow
Member of Congress



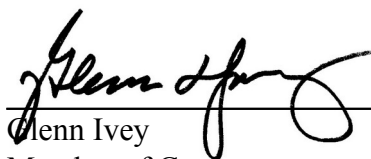
Al Green
Member of Congress



Doris Matsui
Member of Congress



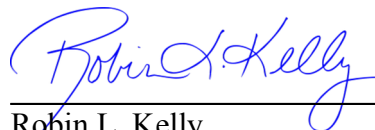
Donald M. Payne, Jr.
Member of Congress



Glenn Ivey
Member of Congress



Nikema Williams
Member of Congress



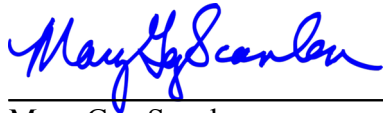
Robin L. Kelly
Member of Congress



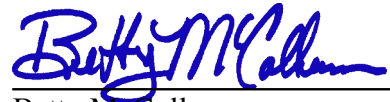
Troy Carter
Member of Congress



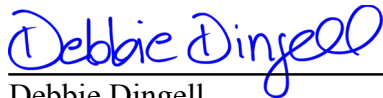
Bradley Scott Schneider
Member of Congress



Mary Gay Scanlon
Member of Congress



Betty McCollum
Member of Congress



Debbie Dingell
Member of Congress



Frederica S. Wilson
Member of Congress



Bonnie Watson Coleman
Member of Congress



Sheila Jackson Lee
Member of Congress



Sheila Cherfilus-McCormick
Member of Congress



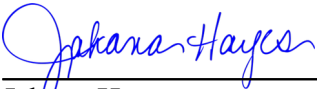
Lois Frankel
Member of Congress



Jake Auchincloss
Member of Congress



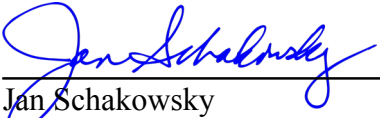
Dan Goldman
Member of Congress



Jahana Hayes
Member of Congress



Maxwell Alejandro Frost
Member of Congress



Jan Schakowsky
Member of Congress



Shri Thanedar
Member of Congress



Jared Moskowitz
Member of Congress

Congress of the United States

Washington, DC 20515

December 6, 2023

Michael Miebach
Chief Executive Officer
Mastercard, Inc.
2000 Purchase Street
Purchase, NY 10577

Dear Mr. Miebach:

We write to express our disappointment that Mastercard has reportedly paused its work to implement a new merchant category code (MCC) that categorizes firearm and ammunition retailers.¹ We request that you resume this work and quickly implement the new firearm retailer MCC. We also ask that you provide us with information to understand Mastercard's hesitation to take this particular course of action to help prevent gun trafficking, gun violence, and domestic terrorism.

Between 2015 and 2022, more than 3,000 mass shootings in the United States injured or killed over 19,000 people.² Over 600 mass shootings have occurred since the start of this year alone.³ Credit cards often facilitate the purchase of the weapons used to commit this violence: in multiple high-profile mass shootings over the past decade, shooters bought tens of thousands of dollars' worth of firearms and ammunition by financing their purchases with credit cards — including in cases where the shooter could not have otherwise afforded the firearms.⁴

Under federal law, national banks are required to submit suspicious activity reports (SARs) of certain transactions they suspect are related to criminal activity.⁵ Despite the fact that banks routinely identify and report suspicious transactions and criminal activity, such as reporting stolen credit cards and fraudulent purchases, they previously did not have the information necessary to report suspicious patterns of purchases from firearm and ammunition retailers.⁶

¹ Reuters, "Amex, Mastercard, Visa pause work on new firearms merchant code," Ross Kerber, March 9, 2023, <https://www.reuters.com/business/finance/mastercard-pause-work-new-payments-code-firearms-sellers-2023-03-09/>.

² Everytown Research & Policy, "Mass Shootings in the United States," March 2023, <https://everytownresearch.org/mass-shootings-in-america/>; see also Pew Research Center, "What the data says about gun deaths in the U.S.," John Gramlich, April 26, 2023, <https://www.pewresearch.org/short-reads/2023/04/26/what-the-data-says-about-gun-deaths-in-the-u-s/>.

³ Gun Violence Archive, "Gun Violence Archive 2023," November 15, 2023, <https://www.gunviolencearchive.org/>.

⁴ The New York Times, "How Banks Unwittingly Finance Mass Shootings," Andrew Ross Sorkin, December 24, 2018, <https://www.nytimes.com/interactive/2018/12/24/business/dealbook/mass-shootings-credit-cards.html>.

⁵ See e.g., 12 C.F.R. §21.11.

⁶ *Id.*; CBS News, "This bank wants to track suspect credit card sales of guns and ammo. Why can't it?" Jim Axelrod, Clare Hymes, and Michael Kaplan, June 20, 2022, <https://www.cbsnews.com/news/bank-credit-cards-suspect-gun-ammo-sales/>.

But in September 2022, the International Organization for Standardization (ISO) approved the creation of a new MCC — a four-digit code that classifies merchants by their purpose of business⁷ — specifically for firearm and ammunition retailers.⁸ This firearm retailer-specific MCC empowers financial institutions to monitor and flag suspicious transactions for law enforcement to preempt possible gun crimes.⁹ Mastercard initially pushed back on an application to the ISO to create an MCC for firearm and ammunition retailers¹⁰ — a stance that Senator Warren urged Mastercard to reverse.¹¹ Soon thereafter, Mastercard announced that it would adopt the new MCC.¹²

However, reports from March 2023 revealed that Mastercard “decided to pause work on the implementation of the firearms-specific MCC,” citing proposed state legislation as the rationale for its decision.¹³ Since then, conflicting state laws have emerged: one state has passed legislation requiring the use of a firearm-specific MCC,¹⁴ while some others have enacted legislation prohibiting it.¹⁵ Thus, it is impossible for Mastercard to comply with all state laws on

⁷ Investopedia, “Merchant Category Codes (MCC): Definition, Purposes, and Examples,” Julia Kagan, August 17, 2023, <https://www.investopedia.com/terms/m/merchant-category-codes-mcc.asp>.

⁸ Reuters, “Global standards body approves new merchant code for gun sellers,” Ross Kerber, September 9, 2022, www.reuters.com/world/Fexclusive-global-standards-body-approves-new-merchant-code-gun-sellers-2022-09-09/.

⁹ The Wall Street Journal, “Banks, Credit-Card Companies Explore Ways to Monitor Gun Purchases,” AnnaMaria Andriotis, Telis Demos, and Emily Glazer, April 30, 2018, <https://www.wsj.com/articles/banks-card-companies-explore-ways-to-monitor-gun-purchases-1525080600>.

¹⁰ CBS News, “This bank wants to track suspect credit card sales of guns and ammo. Why can’t it?” Jim Axelrod, Clare Hymes, and Michael Kaplan, June 20, 2022, <https://www.cbsnews.com/news/bank-credit-cards-suspect-gun-ammo-sales/>.

¹¹ Letters from Senator Warren and Representative Dean, et al. to American Express, Visa, and Mastercard, September 1, 2022, [https://www.warren.senate.gov/imo/media/doc/combinepdf%620\(2\).pdf](https://www.warren.senate.gov/imo/media/doc/combinepdf%620(2).pdf).

¹² NPR, “A new credit card code is a first step toward preventing gun violence, advocates say,” Becky Sullivan, September 15, 2022, <https://www.npr.org/2022/09/15/1123059843/credit-card-code-gun-sales-visa-mastercard-american-express>.

¹³ Reuters, “Amex, Mastercard, Visa pause work on new firearms merchant code,” Ross Kerber, March 9, 2023, <https://www.reuters.com/business/finance/mastercard-pause-work-new-payments-code-firearms-sellers-2023-03-09/>; *see also* Bloomberg News, “Visa, Mastercard Pause Work on Code Aimed at Tracking Gun Purchases,” Jennifer Surane, March 9, 2023, <https://www.bloomberg.com/news/articles/2023-03-09/visa-mastercard-pause-work-on-code-aimed-at-gun-purchases>.

¹⁴ Payments Dive, “States split over gun merchant category code,” Caitlin Mullen, October 2, 2023, <https://www.paymentsdive.com/news/state-laws-gun-merchant-category-code-visa-mastercard-amex-discover/695118/>; Firearms Merchant Category Code, AB-1587 (California), https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB1587; Office of Governor Gavin Newsom, “Governor Newsom Strengthens California’s Nation-Leading Gun Safety Laws,” press release, September 26, 2023, <https://www.gov.ca.gov/2023/09/26/governor-newsom-strengthens-californias-nation-leading-gun-safety-laws/>; Sierra Sun Times, “Governor Gavin Newsom Signs Assemblymember Phil Ting’s Bill That Helps Flag Suspicious Gun & Ammunition Sales in California,” September 28, 2023, <https://goldrushcam.com/sierrasuntimes/index.php/news/local-news/50014-governor-gavin-newsom-signs-assemblymember-phil-ting-s-bill-that-helps-flag-suspicious-gun-ammunition-sales-in-california>.

¹⁵ *See, e.g.*, Sales of Firearms and Ammunition, S.B. 214 (Florida), <https://www.flsenate.gov/Session/Bill/2023/214/BillText/er/PDF>; Second Amendment Financial Privacy Act, H.B. 1110 (Mississippi), <https://legiscan.com/MS/text/HB1110/2023>; Second Amendment Financial Privacy Act, H.B. 2837 (Texas), <https://capitol.texas.gov/tlodocs/88R/billtext/pdf/HB02837F.pdf#navpanes=0>; Second Amendment Financial Privacy Act, H.B. 2004 (West Virginia), https://www.wvlegislature.gov/Bill_Status/bills_history.cfm?INPUT=2004&year=2023&sessiontype=RS; *see also* Reuters, “US Republicans aim to stymie gun sale codes at state level,” Ross Kerber, March 3, 2023, <https://www.reuters.com/world/us/us-republicans-aim-stymie-gun-sale>.

this topic. Mastercard should instead take direction from federal guidance, which says credit card companies should “assign[] *proper* Merchant Category Codes (MCC),” particularly for high-risk merchants,¹⁶ and that banks should have an “adequate understanding of the merchant’s business to ensure that it is classified under the merchant category code” before serving the merchant.¹⁷ This directive to assign an accurate MCC arguably conflicts with state laws that prohibit the use of the firearm-specific MCCs for firearm transactions. Given this landscape of state and federal law, Mastercard should, at a minimum, implement the MCC in all states where it remains legal. There is no legal or technical rationale for Mastercard’s failure to do so; credit card companies routinely implement different MCCs in different jurisdictions for the same type of transaction based on variations in local law, such as for cannabis and gambling.¹⁸

The need for Mastercard to implement this MCC is urgent. Since Mastercard’s pause on implementing the MCC, mass shootings have occurred at an elementary school in Nashville, Tennessee, a mall in Allen, Texas, locations across Lewiston, Maine — and hundreds of other locations.¹⁹ Indeed, 2023 is on track to see the highest number of mass shootings in recent American history.²⁰

The financial industry is uniquely positioned to identify suspicious transactions that could help prevent the next mass shooting in this country.²¹ For example, one shooter used credit cards to purchase close to \$20,000 in firearms, ammunition, and accessories just days before murdering 49 people and wounding 53 others at the Pulse nightclub in Orlando, Florida.²² In another case, a shooter charged \$11,000 in weapons and military accessories to his credit card within weeks of killing 12 and injuring 70 at a movie theater in Aurora, Colorado.²³ It is likely

[codes-state-level-2023-03-03/](#).

¹⁶ Federal Deposit Insurance Corporation, “Merchant Processing,” March 2007, p. 172, https://www.fdic.gov/regulations/examinations/credit_card/pdf_version/ch19.pdf (emphasis added).

¹⁷ Office of the Comptroller of the Currency, “Merchant Processing,” August 2014, p. 23, <https://www.occ.treas.gov/publications-and-resources/publications/comptrollers-handbook/files/merchant-processing/index-merchant-processing.html>. Cf. Federal Financial Institutions Examination Council, “Bank Secrecy Act/Anti-Money Laundering Examination Manual,” 2014, https://bsaaml.ffiec.gov/docs/manual/BSA_AML_Man_2014_v2_CDDBO.pdf (noting heightened risks when a “processor does not perform adequate due diligence on the merchants for which they are originating payments,” *id.* at 236).

¹⁸ See, e.g., Visa, “Visa Merchant Data Standards Manual,” April 2023, pp. 22, 73, 74, <https://usa.visa.com/content/dam/VCOM/download/merchants/visa-merchant-data-standards-manual.pdf>; Mastercard, “Quick Reference Booklet—Merchant Edition,” November 15, 2018, p. 113, 177, <https://www.mastercard.us/content/dam/mccom/en-us/documents/rules/quick-reference-booklet-merchant-edition.pdf>.

¹⁹ *The New York Times*, “Maine Mass Shooting Is America’s 8th, and Deadliest, This Year,” Adeel Hassan, October 26, 2023, <https://www.nytimes.com/2023/10/26/us/mass-shootings-this-year-maine.html>; Gun Violence Archive, “Mass Shootings in 2023,” last viewed November 17, 2023, <https://www.gunviolencearchive.org/reports/mass-shooting>.

²⁰ Forbes, “U.S. Surpasses 600 Mass Shootings This Year—Nearing Record Levels,” Amy Faguy, November 14, 2023, <https://www.forbes.com/sites/anafaguy/2023/11/14/us-surpasses-600-mass-shootings-this-year-nearing-record-levels/?sh=57ba22e43328>; Gun Violence Archive, “Gun Violence Archive 2023,” November 16, 2023, <https://www.gunviolencearchive.org/>.

²¹ *The New York Times*, “How Banks Unwittingly Finance Mass Shootings,” Andrew Ross Sorkin, December 24, 2018, <https://www.nytimes.com/interactive/2018/12/24/business/dealbook/mass-shootings-credit-cards.html>.

²² *Id.*

²³ *Id.*

that, if a firearm and ammunition retailer MCC had been operational at the time of those mass shootings, the uncharacteristically large sums spent on credit cards at firearm retailers within a short time span would have been recognized as suspicious and could have been flagged for law enforcement.²⁴

Mastercard already has the processes in place to detect crimes such as money laundering and financial support for terrorist organizations. Given that Mastercard has the capacity to implement the firearm and ammunition retailer MCC and flag suspicious patterns of purchases, its pause in adoption of this MCC signals an unwillingness to address your company's role in financing gun trafficking, gun violence, and acts of domestic terrorism. In light of your explanation for "paus[ing] work on the implementation of the firearms-specific MCC,"²⁵ we are disappointed that Mastercard appears to have buckled under political pressure from the gun lobby and backtracked on its commitments to implement the firearm and ammunition retailer MCC to help report suspected criminal activity, improve public safety, reduce the threat of gun violence, and protect our children and communities.²⁶

To understand Mastercard's reasons behind this pause, we request that you send us responses to the following questions by January 12, 2024:

1. Does Mastercard support the implementation of the new MCC for standalone firearm retailers? Please explain why or why not.
2. Does Mastercard utilize all MCCs issued by the ISO? If not, please identify which are not currently utilized and explain when that decision was made and why.
3. Press reports indicate that Mastercard cited proposed state bills as the reason for why it decided to pause implementation of the MCC for firearm and ammunition retailers.²⁷ Are these reports accurate? Please explain how and why Mastercard came to the decision to pause the implementation of the firearm and ammunition retailer MCC.
4. What progress had Mastercard made on implementing the new firearm and ammunition retailer MCC prior to announcing that it was "paus[ing] work on the implementation of the firearms-specific MCC"²⁸?

²⁴ TIME, "Why This Bank CEO Likes the Gun Code That Is Making Credit Card Companies Skittish," Belinda Luscombe, March 10, 2023, <https://time.com/6252524/amalgamated-bank-gun-code-priscilla-sims-brown-interview/>.

²⁵ Reuters, "Amex, Mastercard, Visa pause work on new firearms merchant code," Ross Kerber, March 9, 2023, <https://www.reuters.com/business/finance/mastercard-pause-work-new-payments-code-firearms-sellers-2023-03-09/>.


²⁶ AP News, "Visa, Mastercard, AmEx to start categorizing gun shop sales," Ken Sweet, September 10, 2022, <https://apnews.com/article/gun-violence-shootings-new-york-city-politics-4aae50c67e40f9683f604a8683acc391>.


²⁷ Reuters, "Amex, Mastercard, Visa pause work on new firearms merchant code," Ross Kerber, March 9, 2023, www.reuters.com/business/finance/mastercard-pause-work-new-payments-code-firearms-sellers-2023-03-09/.

²⁸ Reuters, "Amex, Mastercard, Visa pause work on new firearms merchant code," Ross Kerber, March 9, 2023, <https://www.reuters.com/business/finance/mastercard-pause-work-new-payments-code-firearms-sellers-2023-03-09/>.

5. What was Mastercard’s anticipated timeline for rolling out the new firearm and ammunition retailer MCC for standalone firearm retailers prior to the previously cited announcement?
6. Will Mastercard implement the firearm and ammunition retailer MCC in California, in compliance with state law?
7. Will Mastercard implement the firearm retailer MCC in other states where it is not prohibited? If yes, what is the timeline for that?
8. What is Mastercard’s justification for pausing implementation of the firearm and ammunition retailer MCC in states where the MCC is not prohibited?
9. Provide examples and details of other publicly announced initiatives or business plans that Mastercard paused or discontinued due to the threat of state legislative action.
10. What steps is Mastercard taking to determine whether and how to implement the firearm and ammunition retailer MCC in states where it is prohibited by state law?
11. What steps is Mastercard taking to determine whether and how to implement the firearm and ammunition retailer MCC in states where it is not prohibited by state law?
12. How does Mastercard intend to comply with federal guidance, which says credit card companies must “assign[] proper Merchant Category Codes (MCC)” for merchants, if the company refuses to report MCC codes for firearm purchases in every state?²⁹

Sincerely,

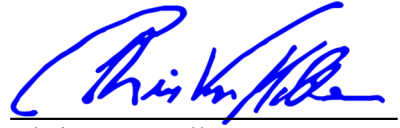

Elizabeth Warren
United States Senator


Madeleine Dean
Member of Congress

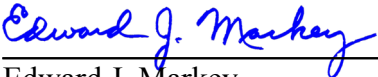
²⁹ Federal Deposit Insurance Corporation, “Merchant Processing,” March 2007, p. 172, https://www.fdic.gov/regulations/examinations/credit_card/pdf_version/ch19.pdf.



Kirsten Gillibrand
United States Senator



Chris Van Hollen
United States Senator



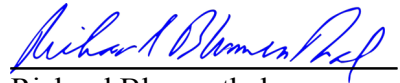
Edward J. Markey
United States Senator



Christopher S. Murphy
United States Senator



Mazie K. Hirono
United States Senator



Richard Blumenthal
United States Senator



Delia C. Ramirez
Member of Congress



Henry C. "Hank" Johnson, Jr.
Member of Congress



Eleanor Holmes Norton
Member of Congress



Adriano Espaillat
Member of Congress




Robert Garcia
Member of Congress



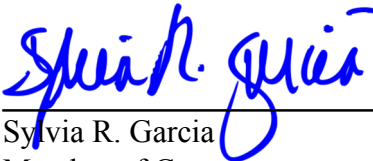
Julia Brownley
Member of Congress



Bill Pascrell, Jr.
Member of Congress



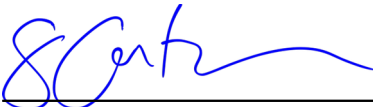
Andrea Salinas
Member of Congress



Sylvia R. Garcia
Member of Congress



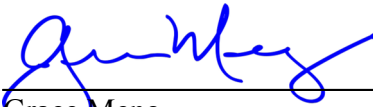
Mike Thompson
Member of Congress



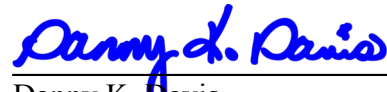
Sean Casten
Member of Congress



Chellie Pingree
Member of Congress



Grace Meng
Member of Congress



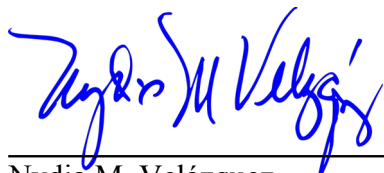
Danny K. Davis
Member of Congress



Valerie P. Foushee
Member of Congress



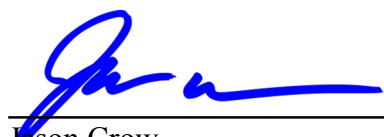
Barbara Lee
Member of Congress



Nydia M. Velázquez
Member of Congress



Jared Moskowitz
Member of Congress



Jason Crow
Member of Congress



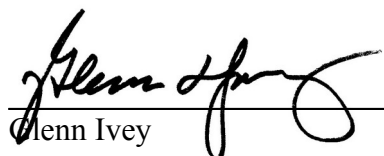
Al Green
Member of Congress



Doris Matsui
Member of Congress



Donald M. Payne, Jr.
Member of Congress



Glenn Ivey
Member of Congress



Nikema Williams
Member of Congress



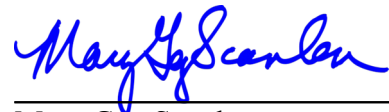
Robin L. Kelly
Member of Congress



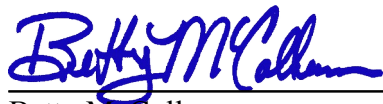
Troy Carter
Member of Congress



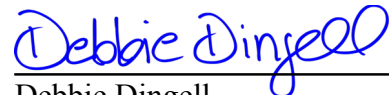
Bradley Scott Schneider
Member of Congress



Mary Gay Scanlon
Member of Congress



Betty McCollum
Member of Congress



Debbie Dingell
Member of Congress



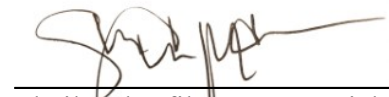
Frederica S. Wilson
Member of Congress



Bonnie Watson Coleman
Member of Congress



Sheila Jackson Lee
Member of Congress



Sheila Cherfilus-McCormick
Member of Congress



Jake Auchincloss
Member of Congress



Lois Frankel
Member of Congress



Dan Goldman
Member of Congress



Jahana Hayes
Member of Congress



Maxwell Alejandro Frost
Member of Congress



Jan Schakowsky
Member of Congress



Shri Thanedar
Member of Congress

Congress of the United States

Washington, DC 20515

December 6, 2023

Ryan McInerney
Chief Executive Officer
Visa, Inc.
900 Metro Center Blvd
Foster City, CA 94404

Dear Mr. McInerney:

We write to express our disappointment that Visa has reportedly paused its work to implement a new merchant category code (MCC) that categorizes firearm and ammunition retailers.¹ We request that you resume this work and quickly implement the new firearm retailer MCC. We also ask that you provide us with information to understand Visa's hesitation to take this particular course of action to help prevent gun trafficking, gun violence, and domestic terrorism.

Between 2015 and 2022, more than 3,000 mass shootings in the United States injured or killed over 19,000 people.² Over 600 mass shootings have occurred since the start of this year alone.³ Credit cards often facilitate the purchase of the weapons used to commit this violence: in multiple high-profile mass shootings over the past decade, shooters bought tens of thousands of dollars' worth of firearms and ammunition by financing their purchases with credit cards — including in cases where the shooter could not have otherwise afforded the firearms.⁴

Under federal law, national banks are required to submit suspicious activity reports (SARs) of certain transactions they suspect are related to criminal activity.⁵ Despite the fact that banks routinely identify and report suspicious transactions and criminal activity, such as reporting stolen credit cards and fraudulent purchases, they previously did not have the information necessary to report suspicious patterns of purchases from firearm and ammunition retailers.⁶

¹ Reuters, "Amex, Mastercard, Visa pause work on new firearms merchant code," Ross Kerber, March 9, 2023, <https://www.reuters.com/business/finance/mastercard-pause-work-new-payments-code-firearms-sellers-2023-03-09/>.

² Everytown Research & Policy, "Mass Shootings in the United States," March 2023, <https://everytownresearch.org/mass-shootings-in-america/>; see also Pew Research Center, "What the data says about gun deaths in the U.S.," John Gramlich, April 26, 2023, <https://www.pewresearch.org/short-reads/2023/04/26/what-the-data-says-about-gun-deaths-in-the-u-s/>.

³ Gun Violence Archive, "Gun Violence Archive 2023," November 15, 2023, <https://www.gunviolencearchive.org/>.

⁴ The New York Times, "How Banks Unwittingly Finance Mass Shootings," Andrew Ross Sorkin, December 24, 2018, <https://www.nytimes.com/interactive/2018/12/24/business/dealbook/mass-shootings-credit-cards.html>.

⁵ See e.g., 12 C.F.R. §21.11.

⁶ *Id.*; CBS News, "This bank wants to track suspect credit card sales of guns and ammo. Why can't it?" Jim Axelrod, Clare Hymes, and Michael Kaplan, June 20, 2022, <https://www.cbsnews.com/news/bank-credit-cards-suspect-gun-ammo-sales/>.

But in September 2022, the International Organization for Standardization (ISO) approved the creation of a new MCC — a four-digit code that classifies merchants by their purpose of business⁷ — specifically for firearm and ammunition retailers.⁸ This firearm retailer-specific MCC empowers financial institutions to monitor and flag suspicious transactions for law enforcement to preempt possible gun crimes.⁹ Visa initially pushed back on an application to the ISO to create an MCC for firearm and ammunition retailers¹⁰ — a stance that Senator Warren urged Visa to reverse.¹¹ Soon thereafter, Visa announced that it would adopt the new MCC.¹²

However, reports from March 2023 revealed that Visa was “pausing implementation of the MCC,” citing proposed state legislation as the rationale for its decision.¹³ Since then, conflicting state laws have emerged: one state has passed legislation requiring the use of a firearm-specific MCC,¹⁴ while some others have enacted legislation prohibiting it.¹⁵ Thus, it is impossible for Visa to comply with all state laws on this topic. Visa should instead take direction

⁷ Investopedia, “Merchant Category Codes (MCC): Definition, Purposes, and Examples,” Julia Kagan, August 17, 2023, <https://www.investopedia.com/terms/m/merchant-category-codes-mcc.asp>.

⁸ Reuters, “Global standards body approves new merchant code for gun sellers,” Ross Kerber, September 9, 2022, www.reuters.com/world/Exclusive-global-standards-body-approves-new-merchant-code-gun-sellers-2022-09-09/.

⁹ The Wall Street Journal, “Banks, Credit-Card Companies Explore Ways to Monitor Gun Purchases,” AnnaMaria Andriotis, Telis Demos, and Emily Glazer, April 30, 2018, <https://www.wsj.com/articles/banks-card-companies-explore-ways-to-monitor-gun-purchases-1525080600>.

¹⁰ CBS News, “This bank wants to track suspect credit card sales of guns and ammo. Why can’t it?” Jim Axelrod, Clare Hymes, and Michael Kaplan, June 20, 2022, <https://www.cbsnews.com/news/bank-credit-cards-suspect-gun-ammo-sales/>.

¹¹ Letters from Senator Warren and Representative Dean, et al. to American Express, Visa, and Mastercard, September 1, 2022, [https://www.warren.senate.gov/imo/media/doc/combinepdf%620\(2\).pdf](https://www.warren.senate.gov/imo/media/doc/combinepdf%620(2).pdf).

¹² NPR, “A new credit card code is a first step toward preventing gun violence, advocates say,” Becky Sullivan, September 15, 2022, <https://www.npr.org/2022/09/15/1123059843/credit-card-code-gun-sales-visa-mastercard-american-express>.

¹³ Payments Dive, “Amex follows rivals in ditching gun code,” Caitlin Mullen, March 9, 2023, <https://www.paymentsdive.com/news/card-companies-halt-gun-code-plans-payments-visa-mastercard-amex-discover/644598/>; see also Bloomberg News, “Visa, Mastercard Pause Work on Code Aimed at Tracking Gun Purchases,” Jennifer Surane, March 9, 2023, <https://www.bloomberg.com/news/articles/2023-03-09/visa-mastercard-pause-work-on-code-aimed-at-gun-purchases>.

¹⁴ Payments Dive, “States split over gun merchant category code,” Caitlin Mullen, October 2, 2023, <https://www.paymentsdive.com/news/state-laws-gun-merchant-category-code-visa-mastercard-amex-discover/695118/>; Firearms Merchant Category Code, AB-1587 (California), https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB1587; Office of Governor Gavin Newsom, “Governor Newsom Strengthens California’s Nation-Leading Gun Safety Laws,” press release, September 26, 2023, <https://www.gov.ca.gov/2023/09/26/governor-newsom-strengthens-californias-nation-leading-gun-safety-laws/>; Sierra Sun Times, “Governor Gavin Newsom Signs Assemblymember Phil Ting’s Bill That Helps Flag Suspicious Gun & Ammunition Sales in California,” September 28, 2023, <https://goldrushcam.com/sierrasuntimes/index.php/news/local-news/50014-governor-gavin-newsom-signs-assemblymember-phil-ting-s-bill-that-helps-flag-suspicious-gun-ammunition-sales-in-california>.

¹⁵ See, e.g., Sales of Firearms and Ammunition, S.B. 214 (Florida), <https://www.flsenate.gov/Session/Bill/2023/214/BillText/er/PDF>; Second Amendment Financial Privacy Act, H.B. 1110 (Mississippi), <https://legiscan.com/MS/text/HB1110/2023>; Second Amendment Financial Privacy Act, H.B. 2837 (Texas), <https://capitol.texas.gov/tlodocs/88R/billtext/pdf/HB02837F.pdf#navpanes=0>; Second Amendment Financial Privacy Act, H.B. 2004 (West Virginia), https://www.wvlegislature.gov/Bill_Status/bills_history.cfm?INPUT=2004&year=2023&sessiontype=RS; see also Reuters, “US Republicans aim to stymie gun sale codes at state level,” Ross Kerber, March 3, 2023, <https://www.reuters.com/world/us/us-republicans-aim-stymie-gun-sale-codes-state-level-2023-03-03/>.

from federal guidance, which says credit card companies should “assign[] *proper* Merchant Category Codes (MCC),” particularly for high-risk merchants,¹⁶ and that banks should have an “adequate understanding of the merchant’s business to ensure that it is classified under the merchant category code” before serving the merchant.¹⁷ This directive to assign an accurate MCC arguably conflicts with state laws that prohibit the use of the firearm-specific MCCs for firearm transactions. Given this landscape of state and federal law, Visa should, at a minimum, implement the MCC in all states where it remains legal. There is no legal or technical rationale for Visa’s failure to do so; credit card companies routinely implement different MCCs in different jurisdictions for the same type of transaction based on variations in local law, such as for cannabis and gambling.¹⁸

The need for Visa to implement this MCC is urgent. Since Visa’s pause on implementing the MCC, mass shootings have occurred at an elementary school in Nashville, Tennessee, a mall in Allen, Texas, locations across Lewiston, Maine — and hundreds of other locations.¹⁹ Indeed, 2023 is on track to see the highest number of mass shootings in recent American history.²⁰

The financial industry is uniquely positioned to identify suspicious transactions that could help prevent the next mass shooting in this country.²¹ For example, one shooter used credit cards to purchase close to \$20,000 in firearms, ammunition, and accessories just days before murdering 49 people and wounding 53 others at the Pulse nightclub in Orlando, Florida.²² In another case, a shooter charged \$11,000 in weapons and military accessories to his credit card within weeks of killing 12 and injuring 70 at a movie theater in Aurora, Colorado.²³ It is likely that, if a firearm and ammunition retailer MCC had been operational at the time of those mass shootings, the uncharacteristically large sums spent on credit cards at firearm retailers within a

¹⁶ Federal Deposit Insurance Corporation, “Merchant Processing,” March 2007, p. 172, https://www.fdic.gov/regulations/examinations/credit_card/pdf_version/ch19.pdf (emphasis added).

¹⁷ Office of the Comptroller of the Currency, “Merchant Processing,” August 2014, p. 23, <https://www.occ.treas.gov/publications-and-resources/publications/comptrollers-handbook/files/merchant-processing/index-merchant-processing.html>. Cf. Federal Financial Institutions Examination Council, “Bank Secrecy Act/Anti-Money Laundering Examination Manual,” 2014, https://bsaaml.ffiec.gov/docs/manual/BSA_AML_Man_2014_v2_CDDBO.pdf (noting heightened risks when a “processor does not perform adequate due diligence on the merchants for which they are originating payments,” *id.* at 236).

¹⁸ See, e.g., Visa, “Visa Merchant Data Standards Manual,” April 2023, pp. 22, 73, 74, <https://usa.visa.com/content/dam/VCOM/download/merchants/visa-merchant-data-standards-manual.pdf>; Mastercard, “Quick Reference Booklet—Merchant Edition,” November 15, 2018, p. 113, 177, <https://www.mastercard.us/content/dam/mccom/en-us/documents/rules/quick-reference-booklet-merchant-edition.pdf>.

¹⁹ *The New York Times*, “Maine Mass Shooting Is America’s 8th, and Deadliest, This Year,” Adeel Hassan, October 26, 2023, <https://www.nytimes.com/2023/10/26/us/mass-shootings-this-year-maine.html>; Gun Violence Archive, “Mass Shootings in 2023,” last viewed November 17, 2023, <https://www.gunviolencearchive.org/reports/mass-shooting>.

²⁰ *Forbes*, “U.S. Surpasses 600 Mass Shootings This Year—Nearing Record Levels,” Amy Faguy, November 14, 2023, <https://www.forbes.com/sites/anafaguy/2023/11/14/us-surpasses-600-mass-shootings-this-year-nearing-record-levels/?sh=57ba22e43328>; Gun Violence Archive, “Gun Violence Archive 2023,” November 16, 2023, <https://www.gunviolencearchive.org/>.

²¹ *The New York Times*, “How Banks Unwittingly Finance Mass Shootings,” Andrew Ross Sorkin, December 24, 2018, <https://www.nytimes.com/interactive/2018/12/24/business/dealbook/mass-shootings-credit-cards.html>.

²² *Id.*

²³ *Id.*

short time span would have been recognized as suspicious and could have been flagged for law enforcement.²⁴

Visa already has the processes in place to detect crimes such as money laundering and financial support for terrorist organizations. Given that Visa has the capacity to implement the firearm and ammunition retailer MCC and flag suspicious patterns of purchases, its pause in adoption of this MCC signals an unwillingness to address your company's role in financing gun trafficking, gun violence, and acts of domestic terrorism. In light of your explanation for "pausing implementation of the MCC,"²⁵ we are disappointed that Visa appears to have buckled under political pressure from the gun lobby and backtracked on its commitments to implement the firearm and ammunition retailer MCC to help report suspected criminal activity, improve public safety, reduce the threat of gun violence, and protect our children and communities.²⁶

To understand Visa's reasons behind this pause, we request that you send us responses to the following questions by January 12, 2024:

1. Does Visa support the implementation of the new MCC for standalone firearm retailers? Please explain why or why not.
2. Does Visa utilize all MCCs issued by the ISO? If not, please identify which are not currently utilized and explain when that decision was made and why.
3. Press reports indicate that Visa cited proposed state bills as the reason for why it decided to pause implementation of the MCC for firearm and ammunition retailers.²⁷ Are these reports accurate? Please explain how and why Visa came to the decision to pause the implementation of the firearm and ammunition retailer MCC.
4. What progress had Visa made on implementing the new firearm and ammunition retailer MCC prior to announcing that it was "pausing implementation of the MCC"²⁸?
5. What was Visa's anticipated timeline for rolling out the new firearm and ammunition retailer MCC for standalone firearm retailers prior to the previously cited announcement?

²⁴ TIME, "Why This Bank CEO Likes the Gun Code That Is Making Credit Card Companies Skittish," Belinda Luscombe, March 10, 2023, <https://time.com/6252524/amalgamated-bank-gun-code-priscilla-sims-brown-interview/>.

²⁵ Payments Dive, "Amex follows rivals in ditching gun code," Caitlin Mullen, March 9, 2023, <https://www.paymentsdive.com/news/card-companies-halt-gun-code-plans-payments-visa-mastercard-amex-discover/644598/>.

²⁶ AP News, "Visa, Mastercard, AmEx to start categorizing gun shop sales," Ken Sweet, September 10, 2022, <https://apnews.com/article/gun-violence-shootings-new-york-city-politics-4aae50c67e40f9683f604a8683acc391>.

²⁷ Reuters, "Amex, Mastercard, Visa pause work on new firearms merchant code," Ross Kerber, March 9, 2023, www.reuters.com/business/finance/mastercard-pause-work-new-payments-code-firearms-sellers-2023-03-09/.

²⁸ Payments Dive, "Amex follows rivals in ditching gun code," Caitlin Mullen, March 9, 2023, <https://www.paymentsdive.com/news/card-companies-halt-gun-code-plans-payments-visa-mastercard-amex-discover/644598/>.

6. Will Visa implement the firearm and ammunition retailer MCC in California, in compliance with state law?
7. Will Visa implement the firearm retailer MCC in other states where it is not prohibited? If yes, what is the timeline for that?
8. What is Visa's justification for pausing implementation of the firearm and ammunition retailer MCC in states where the MCC is not prohibited?
9. Provide examples and details of other publicly announced initiatives or business plans that Visa paused or discontinued due to the threat of state legislative action.
10. What steps is Visa taking to determine whether and how to implement the firearm and ammunition retailer MCC in states where it is prohibited by state law?
11. What steps is Visa taking to determine whether and how to implement the firearm and ammunition retailer MCC in states where it is not prohibited by state law?
12. How does Visa intend to comply with federal guidance, which says credit card companies must "assign[] proper Merchant Category Codes (MCC)" for merchants, if the company refuses to report MCC codes for firearm purchases in every state?²⁹

Sincerely,



Elizabeth Warren
United States Senator



Madeleine Dean
Member of Congress

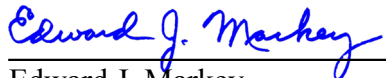


Kirsten Gillibrand
United States Senator



Chris Van Hollen
United States Senator

²⁹ Federal Deposit Insurance Corporation, "Merchant Processing," March 2007, p. 172, https://www.fdic.gov/regulations/examinations/credit_card/pdf_version/ch19.pdf.



Edward J. Markey
United States Senator



Christopher S. Murphy
United States Senator



Richard Blumenthal
United States Senator



Mazie K. Hirono
United States Senator



Delia C. Ramirez
Member of Congress



Henry C. "Hank" Johnson, Jr.
Member of Congress



Eleanor Holmes Norton
Member of Congress



Adriano Espaillat
Member of Congress



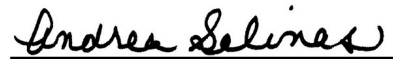
Robert Garcia
Member of Congress



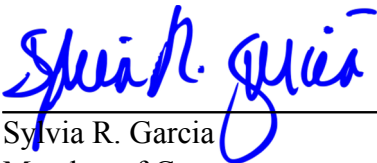
Julia Brownley
Member of Congress



Bill Pascrell, Jr.
Member of Congress



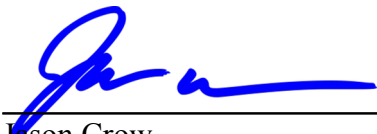
Andrea Salinas
Member of Congress



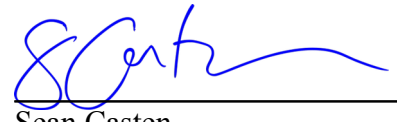
Sylvia R. Garcia
Member of Congress



Mike Thompson
Member of Congress



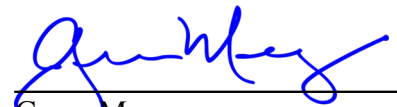
Jason Crow
Member of Congress




Sean Casten
Member of Congress



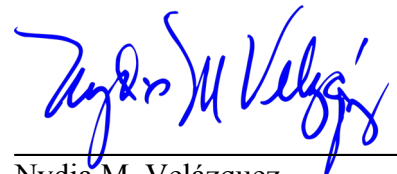
Chellie Pingree
Member of Congress



Grace Meng
Member of Congress



Danny K. Davis
Member of Congress



Nydia M. Velázquez
Member of Congress



Valerie P. Foushee
Member of Congress



Barbara Lee
Member of Congress



Jared Moskowitz
Member of Congress



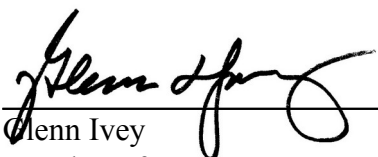
Al Green
Member of Congress



Doris Matsui
Member of Congress



Donald M. Payne, Jr.
Member of Congress



Glenn Ivey
Member of Congress



Nikema Williams
Member of Congress



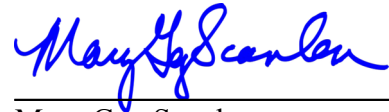
Robin L. Kelly
Member of Congress



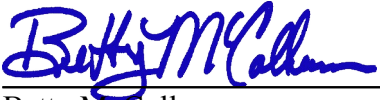
Troy Carter
Member of Congress



Bradley Scott Schneider
Member of Congress



Mary Gay Scanlon
Member of Congress



Betty McCollum
Member of Congress



Debbie Dingell
Member of Congress



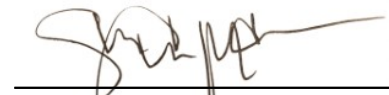
Frederica S. Wilson
Member of Congress



Bonnie Watson Coleman
Member of Congress



Sheila Jackson Lee
Member of Congress



Sheila Cherfilus-McCormick
Member of Congress



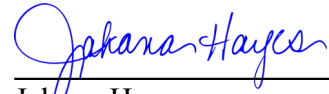
Jake Auchincloss
Member of Congress



Lois Frankel
Member of Congress



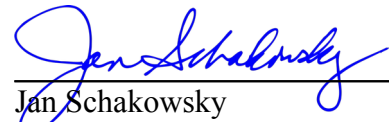
Dan Goldman
Member of Congress



Jahana Hayes
Member of Congress



Maxwell Alejandro Frost
Member of Congress



Jan Schakowsky
Member of Congress



Shri Thanedar
Member of Congress

United States Senate

WASHINGTON, DC 20510

December 6, 2023

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

Dear Mr. Squeri:

We write to express our disappointment that American Express has reportedly paused its work to implement a new merchant category code (MCC) that categorizes firearm and ammunition retailers.¹ We request that you resume this work and quickly implement the new firearm retailer MCC. We also ask that you provide us with information to understand American Express's hesitation to take this particular course of action to help prevent gun trafficking, gun violence, and domestic terrorism.

Between 2015 and 2022, more than 3,000 mass shootings in the United States injured or killed over 19,000 people.² Over 600 mass shootings have occurred since the start of this year alone.³ Credit cards often facilitate the purchase of the weapons used to commit this violence: in multiple high-profile mass shootings over the past decade, shooters bought tens of thousands of dollars' worth of firearms and ammunition by financing their purchases with credit cards — including in cases where the shooter could not have otherwise afforded the firearms.⁴

Under federal law, national banks are required to submit suspicious activity reports (SARs) of certain transactions they suspect are related to criminal activity.⁵ Despite the fact that banks routinely identify and report suspicious transactions and criminal activity, such as reporting stolen credit cards and fraudulent purchases, they previously did not have the information necessary to report suspicious patterns of purchases from firearm and ammunition retailers.⁶

¹ Reuters, "Amex, Mastercard, Visa pause work on new firearms merchant code," Ross Kerber, March 9, 2023, <https://www.reuters.com/business/finance/mastercard-pause-work-new-payments-code-firearms-sellers-2023-03-09/>.

² Everytown Research & Policy, "Mass Shootings in the United States," March 2023, <https://everytownresearch.org/mass-shootings-in-america/>; see also Pew Research Center, "What the data says about gun deaths in the U.S.," John Gramlich, April 26, 2023, <https://www.pewresearch.org/short-reads/2023/04/26/what-the-data-says-about-gun-deaths-in-the-u-s/>.

³ Gun Violence Archive, "Gun Violence Archive 2023," November 15, 2023, <https://www.gunviolencearchive.org/>.

⁴ The New York Times, "How Banks Unwittingly Finance Mass Shootings," Andrew Ross Sorkin, December 24, 2018, <https://www.nytimes.com/interactive/2018/12/24/business/dealbook/mass-shootings-credit-cards.html>.

⁵ See e.g., 12 C.F.R. §21.11.

⁶ *Id.*; CBS News, "This bank wants to track suspect credit card sales of guns and ammo. Why can't it?" Jim Axelrod, Clare Hymes, and Michael Kaplan, June 20, 2022, <https://www.cbsnews.com/news/bank-credit-cards-suspect-gun-ammo-sales/>.

But in September 2022, the International Organization for Standardization (ISO) approved the creation of a new MCC — a four-digit code that classifies merchants by their purpose of business⁷ — specifically for firearm and ammunition retailers.⁸ This firearm retailer-specific MCC empowers financial institutions to monitor and flag suspicious transactions for law enforcement to preempt possible gun crimes.⁹ American Express initially pushed back on an application to the ISO to create an MCC for firearm and ammunition retailers¹⁰ — a stance that Senator Warren urged American Express to reverse.¹¹ Soon thereafter, American Express announced that it would adopt the new MCC.¹²

However, reports from March 2023 revealed that American Express was “pausing the process” of implementing the new firearm and ammunition retailer MCC, citing proposed state legislation as the rationale for its decision.¹³ Since then, conflicting state laws have emerged: one state has passed legislation requiring the use of a firearm-specific MCC,¹⁴ while some others have enacted legislation prohibiting it.¹⁵ Thus, it is impossible for American Express to comply

⁷ Investopedia, “Merchant Category Codes (MCC): Definition, Purposes, and Examples,” Julia Kagan, August 17, 2023, <https://www.investopedia.com/terms/m/merchant-category-codes-mcc.asp>.

⁸ Reuters, “Global standards body approves new merchant code for gun sellers,” Ross Kerber, September 9, 2022, www.reuters.com/world/exclusive-global-standards-body-approves-new-merchant-code-gun-sellers-2022-09-09/.

⁹ The Wall Street Journal, “Banks, Credit-Card Companies Explore Ways to Monitor Gun Purchases,” AnnaMaria Andriotis, Telis Demos, and Emily Glazer, April 30, 2018, <https://www.wsj.com/articles/banks-card-companies-explore-ways-to-monitor-gun-purchases-1525080600>.

¹⁰ CBS News, “This bank wants to track suspect credit card sales of guns and ammo. Why can’t it?” Jim Axelrod, Clare Hymes, and Michael Kaplan, June 20, 2022, <https://www.cbsnews.com/news/bank-credit-cards-suspect-gun-ammo-sales/>.

¹¹ Letters from Senator Warren and Representative Dean, et al. to American Express, Visa, and Mastercard, September 1, 2022, [https://www.warren.senate.gov/imo/media/doc/combinepdf%60\(2\).pdf](https://www.warren.senate.gov/imo/media/doc/combinepdf%60(2).pdf).

¹² NPR, “A new credit card code is a first step toward preventing gun violence, advocates say,” Becky Sullivan, September 15, 2022, <https://www.npr.org/2022/09/15/1123059843/credit-card-code-gun-sales-visa-mastercard-american-express>.

¹³ Payments Dive, “Amex follows rivals in ditching gun code,” Caitlin Mullen, March 9, 2023, <https://www.paymentsdive.com/news/card-companies-halt-gun-code-plans-payments-visa-mastercard-amex-discover/644598/>; Bloomberg News, “Visa, Mastercard Pause Work on Code Aimed at Tracking Gun Purchases,” Jennifer Surane, March 9, 2023, <https://www.bloomberg.com/news/articles/2023-03-09/visa-mastercard-pause-work-on-code-aimed-at-gun-purchases>.

¹⁴ Payments Dive, “States split over gun merchant category code,” Caitlin Mullen, October 2, 2023, <https://www.paymentsdive.com/news/state-laws-gun-merchant-category-code-visa-mastercard-amex-discover/695118/>; Firearms Merchant Category Code, AB-1587 (California), https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB1587; Office of Governor Gavin Newsom, “Governor Newsom Strengthens California’s Nation-Leading Gun Safety Laws,” press release, September 26, 2023, <https://www.gov.ca.gov/2023/09/26/governor-newsom-strengthens-californias-nation-leading-gun-safety-laws/>; Sierra Sun Times, “Governor Gavin Newsom Signs Assemblymember Phil Ting’s Bill That Helps Flag Suspicious Gun & Ammunition Sales in California,” September 28, 2023, <https://goldrushcam.com/sierrasuntimes/index.php/news/local-news/50014-governor-gavin-newsom-signs-assemblymember-phil-ting-s-bill-that-helps-flag-suspicious-gun-ammunition-sales-in-california>.

¹⁵ See, e.g., Sales of Firearms and Ammunition, S.B. 214 (Florida), <https://www.flsenate.gov/Session/Bill/2023/214/BillText/er/PDF>; Second Amendment Financial Privacy Act, H.B. 1110 (Mississippi), <https://legiscan.com/MS/text/HB1110/2023>; Second Amendment Financial Privacy Act, H.B. 2837 (Texas), <https://capitol.texas.gov/tlodocs/88R/billtext/pdf/HB02837F.pdf#navpanes=0>; Second Amendment Financial Privacy Act, H.B. 2004 (West Virginia), https://www.wvlegislature.gov/Bill_Status/bills_history.cfm?INPUT=2004&year=2023&sessiontype=RS; see also Reuters, “US Republicans aim to stymie gun sale codes at state level,” Ross Kerber, March 3, 2023, <https://www.reuters.com/world/us/us-republicans-aim-stymie-gun-sale>.

with all state laws on this topic. American Express should instead take direction from federal guidance, which says credit card companies should “assign[] *proper* Merchant Category Codes (MCC),” particularly for high-risk merchants,¹⁶ and that banks should have an “adequate understanding of the merchant’s business to ensure that it is classified under the merchant category code” before serving the merchant.¹⁷ This directive to assign an accurate MCC arguably conflicts with state laws that prohibit the use of the firearm-specific MCCs for firearm transactions. Given this landscape of state and federal law, American Express should, at a minimum, implement the MCC in all states where it remains legal. There is no legal or technical rationale for American Express’s failure to do so; credit card companies routinely implement different MCCs in different jurisdictions for the same type of transaction based on variations in local law, such as for cannabis and gambling.¹⁸

The need for American Express to implement this MCC is urgent. Since American Express’s pause on implementing the MCC, mass shootings have occurred at an elementary school in Nashville, Tennessee, a mall in Allen, Texas, locations across Lewiston, Maine — and hundreds of other locations.¹⁹ Indeed, 2023 is on track to see the highest number of mass shootings in recent American history.²⁰

The financial industry is uniquely positioned to identify suspicious transactions that could help prevent the next mass shooting in this country.²¹ For example, one shooter used credit cards to purchase close to \$20,000 in firearms, ammunition, and accessories just days before murdering 49 people and wounding 53 others at the Pulse nightclub in Orlando, Florida.²² In another case, a shooter charged \$11,000 in weapons and military accessories to his credit card

[codes-state-level-2023-03-03/](#).

¹⁶ Federal Deposit Insurance Corporation, “Merchant Processing,” March 2007, p. 172, https://www.fdic.gov/regulations/examinations/credit_card/pdf_version/ch19.pdf (emphasis added).

¹⁷ Office of the Comptroller of the Currency, “Merchant Processing,” August 2014, p. 23, <https://www.occ.treas.gov/publications-and-resources/publications/comptrollers-handbook/files/merchant-processing/index-merchant-processing.html>. Cf. Federal Financial Institutions Examination Council, “Bank Secrecy Act/Anti-Money Laundering Examination Manual,” 2014, https://bsaaml.ffiec.gov/docs/manual/BSA_AML_Man_2014_v2_CDDBO.pdf (noting heightened risks when a “processor does not perform adequate due diligence on the merchants for which they are originating payments,” *id.* at 2360).

¹⁸ See, e.g., Visa, “Visa Merchant Data Standards Manual,” April 2023, pp. 22, 73, 74, <https://usa.visa.com/content/dam/VCOM/download/merchants/visa-merchant-data-standards-manual.pdf>; Mastercard, “Quick Reference Booklet—Merchant Edition,” November 15, 2018, p. 113, 177, <https://www.mastercard.us/content/dam/mccom/en-us/documents/rules/quick-reference-booklet-merchant-edition.pdf>.

¹⁹ *The New York Times*, “Maine Mass Shooting Is America’s 8th, and Deadliest, This Year,” Adeel Hassan, October 26, 2023, <https://www.nytimes.com/2023/10/26/us/mass-shootings-this-year-maine.html>; Gun Violence Archive, “Mass Shootings in 2023,” last viewed November 17, 2023, <https://www.gunviolencearchive.org/reports/mass-shooting>.

²⁰ Forbes, “U.S. Surpasses 600 Mass Shootings This Year—Nearing Record Levels,” Amy Faguy, November 14, 2023, <https://www.forbes.com/sites/anafaguy/2023/11/14/us-surpasses-600-mass-shootings-this-year-nearing-record-levels/?sh=57ba22e43328>; Gun Violence Archive, “Gun Violence Archive 2023,” November 16, 2023, <https://www.gunviolencearchive.org/>.

²¹ *The New York Times*, “How Banks Unwittingly Finance Mass Shootings,” Andrew Ross Sorkin, December 24, 2018, <https://www.nytimes.com/interactive/2018/12/24/business/dealbook/mass-shootings-credit-cards.html>.

²² *Id.*

within weeks of killing 12 and injuring 70 at a movie theater in Aurora, Colorado.²³ It is likely that, if a firearm and ammunition retailer MCC had been operational at the time of those mass shootings, the uncharacteristically large sums spent on credit cards at firearm retailers within a short time span would have been recognized as suspicious and could have been flagged for law enforcement.²⁴

American Express already has the processes in place to detect crimes such as money laundering and financial support for terrorist organizations. Given that American Express has the capacity to implement the firearm and ammunition retailer MCC and flag suspicious patterns of purchases, its pause in adoption of this MCC signals an unwillingness to address your company's role in financing gun trafficking, gun violence, and acts of domestic terrorism. In light of your explanation for "pausing the process,"²⁵ we are disappointed that American Express appears to have buckled under political pressure from the gun lobby and backtracked on its commitments to implement the firearm and ammunition retailer MCC to help report suspected criminal activity, improve public safety, reduce the threat of gun violence, and protect our children and communities.²⁶

To understand American Express's reasons behind this pause, we request that you send us responses to the following questions by January 12, 2024:

1. Does American Express support the implementation of the new MCC for standalone firearm retailers? Please explain why or why not.
2. Does American Express utilize all MCCs issued by the ISO? If not, please identify which are not currently utilized and explain when that decision was made and why.
3. Press reports indicate that American Express cited proposed state bills as the reason for why it decided to pause implementation of the MCC for firearm and ammunition retailers.²⁷ Are these reports accurate? Please explain how and why American Express came to the decision to pause the implementation of the firearm and ammunition retailer MCC.

²³ *Id.*

²⁴ TIME, "Why This Bank CEO Likes the Gun Code That Is Making Credit Card Companies Skittish," Belinda Luscombe, March 10, 2023, <https://time.com/6252524/amalgamated-bank-gun-code-priscilla-sims-brown-interview/>.

²⁵ Bloomberg News, "Visa, Mastercard Pause Work on Code Aimed at Tracking Gun Purchases," Jennifer Surane, March 9, 2023, <https://www.bloomberg.com/news/articles/2023-03-09/visa-mastercard-pause-work-on-code-aimed-at-gun-purchases>.

²⁶ AP News, "Visa, Mastercard, AmEx to start categorizing gun shop sales," Ken Sweet, September 10, 2022, <https://apnews.com/article/gun-violence-shootings-new-york-city-politics-4aae50c67e40f9683f604a8683acc391>.

²⁷ Reuters, "Amex, Mastercard, Visa pause work on new firearms merchant code," Ross Kerber, March 9, 2023, www.reuters.com/business/finance/mastercard-pause-work-new-payments-code-firearms-sellers-2023-03-09/.

4. What progress had American Express made on implementing the new firearm and ammunition retailer MCC prior to announcing that it was “pausing the process”?²⁸
5. What was American Express’s anticipated timeline for rolling out the new firearm and ammunition retailer MCC for standalone firearm retailers prior to the previously cited announcement?
6. Will American Express implement the firearm and ammunition retailer MCC in California, in compliance with state law?
7. Will American Express implement the firearm retailer MCC in other states where it is not prohibited? If yes, what is the timeline for that?
8. What is American Express’s justification for pausing implementation of the firearm and ammunition retailer MCC in states where the MCC is not prohibited?
9. Provide examples and details of other publicly announced initiatives or business plans that American Express paused or discontinued due to the threat of state legislative action.
10. What steps is American Express taking to determine whether and how to implement the firearm and ammunition retailer MCC in states where it is prohibited by state law?
11. What steps is American Express taking to determine whether and how to implement the firearm and ammunition retailer MCC in states where it is not prohibited by state law?
12. How does American Express intend to comply with federal guidance, which says credit card companies must “assign[] proper Merchant Category Codes (MCC)” for merchants, if the company refuses to report MCC codes for firearm purchases in every state?²⁹

Sincerely,



Elizabeth Warren
United States Senator



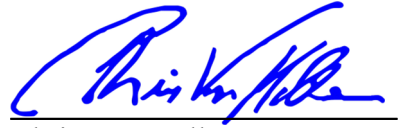
Madeleine Dean
Member of Congress

²⁸ Bloomberg News, “Visa, Mastercard Pause Work on Code Aimed at Tracking Gun Purchases,” Jennifer Surane, March 9, 2023, <https://www.bloomberg.com/news/articles/2023-03-09/visa-mastercard-pause-work-on-code-aimed-at-gun-purchases>.

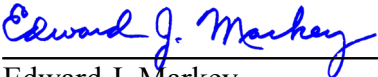
²⁹ Federal Deposit Insurance Corporation, “Merchant Processing,” March 2007, p. 172, https://www.fdic.gov/regulations/examinations/credit_card/pdf_version/ch19.pdf.



Kirsten Gillibrand
United States Senator



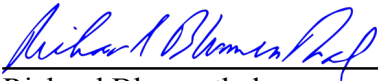
Chris Van Hollen
United States Senator



Edward J. Markey
United States Senator



Christopher S. Murphy
United States Senator



Richard Blumenthal
United States Senator



Mazie K. Hirono
United States Senator



Delia C. Ramirez
Member of Congress



Henry C. "Hank" Johnson, Jr.
Member of Congress



Eleanor Holmes Norton
Member of Congress



Adriano Espaillat
Member of Congress



Robert Garcia
Member of Congress



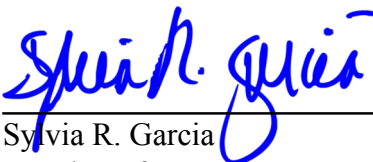
Julia Brownley
Member of Congress



Bill Pascrell, Jr.
Member of Congress



Andrea Salinas
Member of Congress



Sylvia R. Garcia
Member of Congress



Mike Thompson
Member of Congress



Jason Crow
Member of Congress



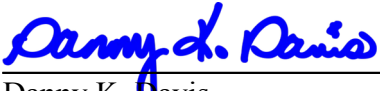
Sean Casten
Member of Congress



Chellie Pingree
Member of Congress



Grace Meng
Member of Congress



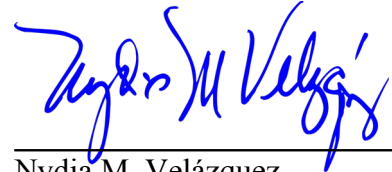
Danny K. Davis
Member of Congress



Al Green
Member of Congress



Barbara Lee
Member of Congress



Nydia M. Velázquez
Member of Congress



Valerie P. Foushee
Member of Congress



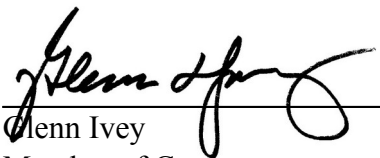
Jared Moskowitz
Member of Congress



Doris Matsui
Member of Congress



Donald M. Payne, Jr.
Member of Congress



Glenn Ivey
Member of Congress



Nikema Williams
Member of Congress



Robin L. Kelly
Member of Congress



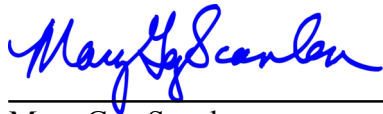
Troy Carter
Member of Congress



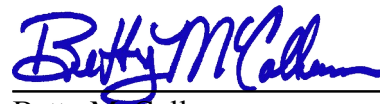
Bradley Scott Schneider
Member of Congress



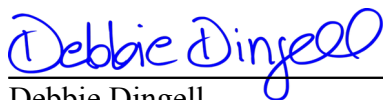
Sheila Cherfilus-McCormick
Member of Congress



Mary Gay Scanlon
Member of Congress



Betty McCollum
Member of Congress



Debbie Dingell
Member of Congress



Frederica S. Wilson
Member of Congress



Sheila Jackson Lee
Member of Congress



Bonnie Watson Coleman
Member of Congress



Jake Auchincloss
Member of Congress



Lois Frankel
Member of Congress



Dan Goldman
Member of Congress



Jahana Hayes
Member of Congress



Maxwell Alejandro Frost
Member of Congress



Jan Schakowsky
Member of Congress



Shri Thanedar
Member of Congress