

United States Senate

WASHINGTON, DC 20510

March 15, 2023

The Honorable Janet Yellen
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20554

Dear Secretary Yellen and Attorney General Garland:

Last year, the International Organization for Standardization approved a new merchant category code (MCC) for gun and ammunition stores.¹ Soon thereafter, leading credit card networks Visa, Mastercard, and American Express announced they would adopt the new MCC.² MCCs are four-digit numbers that identify the type of business processing a financial transaction – such as grocery stores, department stores, and hardware stores. Previously, gun and ammunition stores were categorized as sporting goods stores or miscellaneous general merchandise stores.³ We strongly support the new MCC code for gun and ammunition stores and urge the Department of the Treasury (Treasury) and the Department of Justice (DOJ) to provide the necessary guidance to financial institutions so they can fully implement the new code as quickly as possible into their existing compliance systems and procedures, including for monitoring and reporting suspicious activity.

Gun violence is ravaging our nation at a staggering rate. Last year there were 648 mass shootings and more than 44,300 gun-related deaths in the United States.⁴ In 2021, nearly 3,600 children died from gunfire, and in 2020 gun violence surpassed car accidents and became the leading cause of death for children in the United States.⁵ We believe the new MCC code has the potential to help reduce gun violence and save lives.

¹ Ross Kerber, *Global standards body approves new merchant code for gun sellers*, REUTERS, Sept. 9, 2022, <https://www.reuters.com/world/exclusive-global-standards-body-approves-new-merchant-code-gun-sellers-2022-09-09/>.

² Becky Sullivan, *A new credit card code is a first step toward preventing gun violence, advocates say*, NPR, Sept. 15, 2022, <https://www.npr.org/2022/09/15/1123059843/credit-card-code-gun-sales-visa-mastercard-american-express>.

³ *Id.*

⁴ BRADY: UNITED AGAINST GUN VIOLENCE, *New CDC Data Shows 2021 Was Record Year for Gun Violence* (last visited Feb. 10, 2023), <https://www.bradyunited.org/blog/cdc-data-record-year-gun-violence>.

⁵ Robert Gebeloff et al., *Childhood's Greatest Danger: The Data on Kids and Gun Violence*, N.Y. TIMES MAG., Dec. 14, 2022, <https://www.nytimes.com/interactive/2022/12/14/magazine/gun-violence-children-data-statistics.html>.

Last year, following the murder of nineteen children and two teachers in a mass shooting at Robb Elementary School in Uvalde, Texas,⁶ and the racially motivated murder of ten in a grocery store in Buffalo, New York,⁷ Congress finally took action to address gun violence prevention and enacted the Bipartisan Safer Communities Act (BSCA).⁸ The BSCA closes loopholes that allowed gun dealers to avoid conducting background checks and maintain sales records, requires background checks for convicted domestic violence abusers, enhances background checks for purchasers under the age of twenty-one, cracks down on gun trafficking and straw purchases, and authorizes funding for state “red flag” laws.⁹ However, enactment of the BSCA must not be the end of our work to end gun violence.

We urge Treasury and DOJ to quickly publish any policy advisory, enforcement guidance, and other materials needed by financial institutions, retailers, and law enforcement as the new MCC code is implemented for gun and ammunition stores. Specifically, we encourage Treasury to issue advisory guidance to financial institutions to clarify the regulatory expectation that merchant category codes are assigned expeditiously and accurately based on the nature of the merchant’s business, and that inaccurate or dated classification is inconsistent with Know Your Customer record-keeping requirements.¹⁰

We also ask Treasury, with input from the DOJ, to issue guidance to financial institutions regarding circumstances that should prompt financial firms to file a suspicious activity report about transactions they suspect are related to trafficking in firearms, money laundering proceeds from trafficking in firearms, or other criminal activity.¹¹ Finally, we urge the DOJ to develop and implement policies governing the use of the new MCC to strengthen enforcement of the anti-straw purchasing provisions of the BSCA.¹²

In 2018, *The New York Times* reported that in the majority of mass shootings between 2007 and 2018, the shooter used credit or debit cards to acquire the guns and ammunition used in the attack.¹³ As a result, banks issuing those cards are in a unique position to observe and flag suspicious buying patterns in ways that law enforcement, family members, and retailers cannot.¹⁴

We believe that implementation of the new MCC code for gun stores could enable financial institutions to identify and report potentially illegal gun sales to law enforcement—helping reduce gun trafficking, straw purchases, and transactions structured to evade the mandatory

⁶ Emilie Eaton et al., ‘My heart is broken’: At least 19 students, 2 adults killed in elementary school shooting in Uvalde, HOUS. CHRON., May 24, 2022, <https://www.houstonchronicle.com/news/houston-texas/texas/article/ualde-school-shooting-17196907.php>.

⁷ Jenna Zucker, Steve Gorman, and Moira Warburton, *Gunman kills 10 in live-streamed racial attack at supermarket in Buffalo*, REUTERS, May 14, 2022, <https://www.reuters.com/world/us/ten-killed-three-wounded-mass-shooting-grocery-store-buffalo-ny-2022-05-14/>.

⁸ Bipartisan Safer Communities Act, Pub. L. No. 117-159 (2022).

⁹ *Id.*

¹⁰ *See e.g.*, 31 C.F.R. §§ 1020.210, 1020.220.

¹¹ *See e.g.*, 12 C.F.R. § 21.11.


¹² 18 U.S.C. § 932.

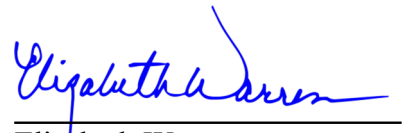
¹³ Andrew Ross Sorkin, *How Banks Unwittingly Finance Mass Shootings*, N.Y. TIMES, Dec. 24, 2018, <https://www.nytimes.com/interactive/2018/12/24/business/dealbook/mass-shootings-credit-cards.html>.


¹⁴ *Id.*

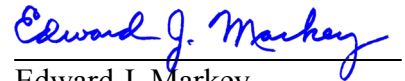
multiple sale reports required by firearm retailers. Financial firms are already obligated to report suspicious transactions connected with a range of illegal activities. Implementation of the new MCC code could provide banks with key insight to identify suspicious patterns of firearm and ammunition purchases, which could potentially help law enforcement preempt mass shootings. We look forward to working with you as you take action to stem the scourge of gun violence and gun-related crime.


Sincerely,



Robert Menendez
United States Senator


Elizabeth Warren
United States Senator



Kirsten Gillibrand
United States Senator


Edward J. Markey
United States Senator


Dianne Feinstein
United States Senator

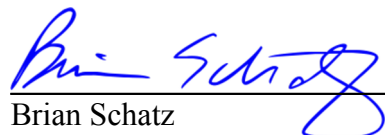

Christopher S. Murphy
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Mazie K. Hirono
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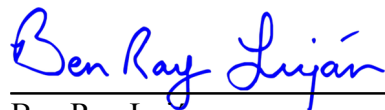
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