



March 16, 2023

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American Express Co.
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Michael Miebach
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Ryan McNerny
Chief Executive Officer
Visa Inc.
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Roger C. Hochschild
President and CEO
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Dear Mr. Squeri, Mr. Miebach, Mr. McNerny, and Mr. Hochschild,

We write to express our deep concern about your decision to pause the adoption of the International Organization for Standardization's (ISO) new merchant category code (MCC) for gun and ammunition sales. As you know, the ISO voted months ago to improve the precision of its MCC codes by creating a new code specific to firearms businesses.¹ Your companies publicly agreed to use this new code.² As Attorneys General in our respective jurisdictions, we praised your decision to adopt the industry standard, which would help catch criminals and thwart mass shootings that have devastated our country.³ We were concerned to learn that you now plan to break your pledge. We urge you to stick to your original promise.

Your companies process millions of transactions in firearms, ammunition, kits, parts, and more. Although the vast majority of these transactions reflect lawful purchases, many are unlawful. Those unlawful sales include the purchase of prohibited firearms such as ghost guns or assault weapons, straw buyers engaged in trafficking, and high-risk purchasers trying to avoid detection in amassing an arsenal that could be used for mass shootings.

¹ ISO 18245:2003, <https://www.iso.org/standard/33365.html> (last visited Mar. 10, 2023).

² Mrinmay Dey, *Payments giants to apply new code identifying sales at U.S. gun stores*, REUTERS (Sept. 10, 2022), <https://www.reuters.com/business/visa-apply-new-code-identifying-sales-us-gun-stores-2022-09-11>; Ross Kerber, *Discover to enable tracking of purchases at gun retailers from April*, REUTERS (Feb. 18, 2023), <https://www.reuters.com/business/discover-enable-tracking-purchases-gun-retailers-april-2023-02-17>.

³ Letter from States Att'ys General to CEOs of American Express, Mastercard, and Visa. (Sept. 30, 2022), [https://www.nj.gov/oag/newsreleases22/2022-0930_Multi-State-Ltr-in-Support-of-MCC-\(FINAL\)-w-signatures.pdf](https://www.nj.gov/oag/newsreleases22/2022-0930_Multi-State-Ltr-in-Support-of-MCC-(FINAL)-w-signatures.pdf) ("September 2022 Letter").

We are all too painfully familiar with the costs of gun violence. In Highland Park, a disturbed young adult with a history of making violent threats purchased an illegal assault weapon in an online transaction.⁴ The sale led to a mass shooting at a July 4th parade that resulted in seven lives lost, dozens more injured, and a terrorized community. In Buffalo, a disturbed young adult white supremacist with a similar history of making violent threats purchased an assault weapon from a local retailer,⁵ which he then used to murder ten black individuals at Tops Supermarket. In Minnesota, a reckless chain retailer sold firearms to criminal straw purchasers who were going from store-to-store. These firearms were used in multiple shootings later, and most of them remain unrecovered.⁶ Nationwide, gun violence claimed over 47,000 lives in 2021;⁷ preliminary data points to a similar figure for 2022.⁸ And gun violence does not just take lives. It destroys families and forces entire communities to live in fear.

You can help disrupt this violence. As we have explained previously,⁹ deploying this new category code can produce actionable information about criminal purchases. This code will help law enforcement agencies identify individuals who are seeking to evade our state laws by purchasing firearms and ammunition at multiple retailers. We already do this for banks to combat money launderers and pharmacies to identify over-prescribing doctors. We even code basic transactions for everyday items like flowers and groceries, and have retailer codes for stamp shops, tent shops, wig shops, car rental places, and various government services. Exempting firearm purchases from such a basic accounting will only make it harder to intercept and disrupt the next mass shooting. You are in a unique position to help keep people safe by enabling financial institutions and law enforcement to detect and flag threatening patterns. Indeed, financial institutions have been identifying potential criminal activity and reporting to law enforcement for decades. For instance, federal law requires Suspicious Activity Reports when banks “detect a known or suspected violation of Federal law or a suspicious transaction related to a money laundering activity or a violation of the Bank Secrecy Act.”¹⁰ And state and federal law enforcement agencies often request evidence relating to firearms or other investigations.¹¹ But the ability of financial institutions or law enforcement to take steps against criminal gun purchases is hampered by the lack of a dedicated code for firearm and ammunition retailers. To state the obvious, neither companies nor law enforcement can detect, much less thwart, dangerous patterns in generally coded data.

This new ISO standard is hardly an extraordinary development. Applying a merchant category code is routine: any person familiar with a credit-card bill understands that transactions get categorized according to the nature of the store. Like any other merchant category code, the

⁴ Compl., *Turnipseed v. Smith & Wesson Brands Inc.*, No. 22LA00000497 (Lake Cty. Ill. Cir. Ct., Sept. 28, 2022).

⁵ Compl., *City of Buffalo v. Smith & Wesson Brands, Inc. et al.*, 23-cv-66 (W.D.N.Y. Jan. 23, 2023).

⁶ Compl., *Minnesota v. Fleet Farm LLC*, No. 22-cv-2694 (D. Minn. Oct. 26, 2022).

⁷ *U.S. gun death rates hit highest levels in decades, study says*, POLITICO (Nov. 29, 2022), <https://www.politico.com/news/2022/11/29/gun-death-rates-highest-levels-00071285>.

⁸ *Gun Violence Archive*, <https://www.gunviolencearchive.org> (last visited Mar. 10, 2023).

⁹ September 2022 Letter.

¹⁰ 12 C.F.R. 21.11.

¹¹ See 15 USC § 6802(e)(6), (8).

firearms-retailer code does no more than that. Rather, it simply provides greater specificity that can help consumers and law enforcement alike to identify purchases made at standalone gun and ammunition establishments.

It is clear that your about-face is the result of a handful of state legislative proposals threatening penalties, and amorphous veiled threats from certain state attorneys general, if you code your transaction data as you have pledged to do. First, these threats of incipient legislation and nebulous repercussions should not drive your conduct in this essential area. Second, we do not believe that any state interest could justify a government prohibiting you from coding or analyzing your data that way. In this context, we fear you are setting a precedent that invites further threats and interference in lawful, protected business practices.

In short, we see no justifiable reason that you would renege on your pledge to take this basic step towards saving lives. Applying a merchant code is hardly an invitation to violate the Second Amendment. But failing to apply it is an invitation to criminals to commit violent acts in our communities. We hope and expect you will reconsider your decision and not abandon your public commitments. Should you fail to do so, your complicity with ongoing needless gun tragedies will lead us to consider further actions.

Sincerely,



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District of Columbia Attorney General



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