

## **ABORTION & CONSUMER DATA PRIVACY (AMEX)**

**WHEREAS:** Following the revocation of the constitutional right to an abortion in June 2022, policymakers and legislators have become alarmed by the use of personal digital data for the enforcement of state laws that ban or limit abortion access. Congress is considering bills that would increase privacy protections for personal reproductive health information. California now requires out-of-state law enforcement seeking personal data from California corporations to attest that the investigation does not involve any crime related to an abortion that is lawful under California law.

Law enforcement frequently relies on digital consumer data. While American Express does not publicly report figures on its compliance with law enforcement requests, Alphabet and Meta alone collectively received around 110,000 requests in the second half of 2021, and each complied with about 80% of those requests. In 2022, Meta satisfied a Nebraska police warrant for private Facebook messages from a defendant facing felony charges for allegedly helping her daughter terminate a pregnancy.

Financial institutions collect sensitive personal information such as geolocation data, browsing history and financial activity. There is reason for concern that such data will be accessed without consumer consent by states that criminalize abortion. Indeed, the American Express Privacy Statement declares that the Company “may share [p]ersonal [i]nformation as require[d] or as permitted by law, with . . . governmental agencies to comply with . . . government requests.” However, such law enforcement requests may seek evidence of consumer acts that are inappropriate for the bank to voluntarily share – for example, evidence of a customer’s financial activities that were legal in the state where they occurred, such as purchasing abortion pills.

Since American Express collects and stores digital consumer data, the Company is not immune to abortion-related law enforcement requests that may create significant reputational, financial, and legal risks. American Express is already complying with “deletion rights” under California law, wherein consumers may request that the Company delete collected personal data that is not legally required to retain. Accordingly, there is a strong market benefit to upholding and increasing longstanding consumer privacy expectations.

**RESOLVED:** Shareholders request that our Board issue a public report detailing any known and potential risks and costs to the Company of fulfilling information requests regarding American Express customers for the enforcement of state laws criminalizing abortion access, and setting forth any strategies beyond legal compliance that the Company may deploy to minimize or mitigate these

risks. The report should be produced at reasonable expense, exclude proprietary or legally privileged information, and be published no later than September 1, 2024.

**SUPPORTING STATEMENT:** Shareholders recommend that the report, in the discretion of board and management, should:

- (1) Consider the implementation of a data privacy policy wherein consumers nationwide would have “deletion rights,” and would be notified by the Company about any law enforcement information requests regarding their data prior to complying with any such request; and,
- (2) Reflect the input or participation of reproductive rights and civil liberties organizations.