December 20, 2024

**Via Online Shareholder Proposal Form**

U.S. Securities and Exchange Commission
Division of Corporation Finance
Office of Chief Counsel
100 F Street, N.E.
Washington D.C. 20549

**Re: Shareholder Proposal Submitted by Inspire Investing, LLC**

Dear Sir or Madam:

In accordance with Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), American Express Company, a New York corporation (the "Company"), hereby gives notice of the Company's intention to exclude from its proxy statement for its 2025 annual meeting of shareholders (the "2025 Proxy Statement") a shareholder proposal (the "Proposal") submitted by Inspire Investing, LLC (the "Proponent"). A copy of the Proposal, together with the supporting statement included in the Proposal, is attached hereto as Exhibit A.

The Company requests confirmation that the staff of the Division of Corporation Finance (the "Staff") of the Securities and Exchange Commission (the "Commission") will not recommend any enforcement action if the Company excludes the Proposal from the 2025 Proxy Statement pursuant to Rule 14a-8(i)(7) under the Exchange Act because the Proposal deals with matters relating to the Company's ordinary business operations and seeks to micromanage the Company, Rule 14a-8(i)(3) under the Exchange Act because the Proposal contains materially false or misleading statements and is impermissibly vague and Rule 14a-8(i)(5) under the Exchange Act because the Proposal relates to operations that are not economically significant or otherwise significantly related to the Company's business.

In accordance with Rule 14a-8(j), we are submitting this letter to the Commission no later than 80 calendar days before the Company expects to file its definitive 2025 Proxy Statement with the Commission. Pursuant to Staff Legal Bulletin No. 14D (CF), Shareholder Proposals (Nov. 7, 2008) and related Staff guidance, we have submitted this letter and its attachments to the Commission electronically through the Staff's online Shareholder Proposal Form. In accordance with Rule 14a-8(j), a copy of this submission is being forwarded simultaneously to the Proponent. This letter constitutes the Company's statement of the reasons it deems the omission of the Proposal from the 2025 Proxy Statement to be proper.

The Company intends to file its definitive 2025 proxy materials on March 14, 2025 and print shortly thereafter.

## THE PROPOSAL

The proposed resolution included in the Proposal provides as follows:

> **Resolved:** Shareholders request the Board of Directors conduct an evaluation and issue a report within the next year, at reasonable cost

and excluding proprietary information and disclosure of anything that would constitute an admission of pending litigation, evaluating how excluding religious charities from its employee-gift match program impacts the risks related to religious discrimination against employees.

## BASIS FOR EXCLUSION

In accordance with Rule 14a-8, the Company hereby respectfully requests that the Staff concur with the Company's view that the Proposal may be excluded from the 2025 Proxy Statement for the following reasons:

A. The Proposal may be excluded pursuant to Rule 14a-8(i)(7) under the Exchange Act, because the Proposal deals with matters relating to the Company's ordinary business operations and seeks to micromanage the Company;

B. The Proposal may be excluded pursuant to Rule 14a-8(i)(3) under the Exchange Act, because the Proposal contains materially false or misleading statements and is impermissibly vague; and

C. The Proposal may be excluded pursuant to Rule 14a-8(i)(5) under the Exchange Act, because the Proposal relates to operations that are not economically significant or otherwise significantly related to the Company's business.

## ANALYSIS

### A. Under Rule 14a-8(i)(7), the Proposal may be excluded because it deals with matters relating to the Company's ordinary business operations and seeks to micromanage the Company.

*1) Rule 14a-8(i)(7) Background*

Pursuant to Rule 14a-8(i)(7), a shareholder proposal may be excluded if it "deals with a matter relating to the company's ordinary business operations." According to the Commission's prior guidance, the term "ordinary business" refers to matters that are not necessarily "ordinary" in the common meaning of the word, but instead the term "is rooted in the corporate law concept [of] providing management with flexibility in directing certain core matters involving the company's business and operations." *See* Exchange Act Release No. 34-40018 (May 21, 1998) (the "1998 Release"). When assessing proposals under Rule 14a-8(i)(7), the Staff considers the terms of the resolution and its supporting statement as a whole. *See* Section D.2 of *Staff Legal Bulletin No. 14C* (Jun. 28, 2005).

In the 1998 Release, the Commission explained that the underlying policy of the ordinary business exclusion is "to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting," and identified two central considerations

that underlie this policy. The first is that "[c]ertain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight." The second consideration relates to "the degree to which the proposal seeks to 'micro-manage' the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment."

More recently, in *Staff Legal Bulletin No. 14L* (Nov. 3, 2021) ("SLB No. 14L"), the Staff rescinded prior guidance that a company may exclude a shareholder proposal in respect of its ordinary business operation if the proposal did not raise a policy issue that was significant to a particular company. In SLB No. 14L, the Staff realigned its approach for determining whether a proposal relates to ordinary business to provide an exception for proposals that raise significant social policy issues that transcend the ordinary business of the company. In explaining the change, the Staff noted, "[W]e have found that focusing on the significance of a policy issue to a particular company has drawn the Staff into factual considerations that do not advance the policy objectives behind the ordinary business exception," which "did not yield consistent, predictable results."

In addition, in SLB No. 14L, the Staff provided guidance on its position on micromanagement when evaluating requests to exclude a proposal on that basis under the ordinary business exception. The Staff stated that it will no longer view proposals that seek detail or seek to promote timeframes or methods as *per se* micromanagement. Instead, the Staff will focus on the level of detail and granularity sought in the proposal and may look to well-established frameworks or references in considering what level of detail may be too complex for shareholder input. The Staff also noted that it will look to the sophistication of investors generally, the availability of data and the robustness of public discussion in considering whether a proposal's matter is too complex for shareholders, as a group, to make an informed judgment.

Further, framing a proposal as a request for an evaluation of risk, or as a request for a report on risk assessment, does not change the nature of the proposal. When evaluating a proposal that relates to a company's assessment of risk, the Staff has focused on the subject matter to which the risk pertains, or that gives rise to the risk, to determine whether the proposal relates to the company's ordinary business. *See Staff Legal Bulletin No. 14E* (Oct. 27, 2009); *see also Fox Corp.* (Jul. 2, 2024) (finding that a proposal requesting a report on the negative social impact and risks to the company from continuing to inadequately distinguish between the company's on-air news content and its opinion content, and the viability and benefits of providing public differentiation between its news and the entertainment-based nature of its non-news shows); *McDonald's Corp.* (Mar. 22, 2019) (finding that a proposal requesting that the company disclose the economic risks resulting from campaigns targeting the company over concerns about cruelty to chickens focused primarily on matters relating to the company's ordinary business operations); *Ford Motor Co.* (Feb. 2, 2017) (finding that a proposal requesting a report on the company's assessment of political activity resulting from its advertising and its exposure to risk resulting therefrom related to the company's ordinary business practices); *Exxon Mobil Corp.* (Jan. 23, 2012) (finding that a proposal requesting a report discussing possible short and long term risks to the company's finances and operations posed by the environmental, social and economic challenges associated with oil sands related to the company's ordinary business operations); and *Pfizer Inc.* (Feb. 16, 2011) (finding that a proposal requesting an annual assessment of risks created by actions taken

by the company to avoid or minimize U.S. federal, state and local taxes related to the company's ordinary business operations).

2) *The Proposal may be excluded because it involves issues within the Company's ordinary business operations.*

The Proposal may be excluded pursuant to Rule 14a-8(i)(7) because it relates to the Company's ordinary business functions related to general employee compensation and benefits matters as well as decisions regarding charitable contributions.

The Proposal requests that the Company evaluate and issue a report on how excluding religious charities from the Company's employee gift match program impacts the risks related to religious discrimination against employees. The supporting statement claims the Company "appears to exclude religious programs from its gift match program" through a policy of not matching employee charitable contributions to any group that incites hatred or promotes discrimination. As support for its claims, the Proponent refers to what appears to be the Terms of Use of Benevity, Inc. ("Benevity"), a third-party charitable software platform the Company uses to manage its employee donations gift match program for charitable causes.

The Company does not play any role in determining whether a charitable organization conforms to Benevity's Terms of Use or is otherwise eligible for inclusion on the Benevity platform. Pursuant to the Company's gift match program, eligible employees can donate to any charitable organization, including religious or faith-based organizations, that are approved by Benevity and registered on Benevity's platform, and the Company matches contributions to such organization up to certain specified amounts per employee, annually. According to Benevity's Terms of Use, Benevity determines, in its sole discretion, whether an organization is eligible to register to receive contributions through its platform by considering a number of factors. These factors include whether the organization is registered and in good standing with its local government or regulatory authority, is in compliance with all applicable laws and regulations, has not engaged in any conduct that violates any laws relating to terrorism, money laundering, fraud, bribery or other financial crime, does not publish content that condones violence or incites hatred and is not registered or operating in any country that is subject to economic or comprehensive sanctions imposed by relevant international authorities, among other factors. In making this determination, Benevity states that it considers content published both on and off Benevity's platform.

In analyzing shareholder proposals relating to a company's compensation and benefits program, the Staff has distinguished between proposals that relate to general employee compensation and benefits and proposals that address only executive officer and director compensation and benefits. The former implicates a company's ordinary business operations and thus are excludable under Rule 14a-8(i)(7). *See Staff Legal Bulletin No. 14A* (Jul. 12, 2002) ("SLB No. 14A") (indicating that "[s]ince 1992, [the Staff has] applied a bright-line analysis to proposals concerning equity or cash compensation" under which companies "may exclude proposals that relate to general employee compensation matters in reliance on [R]ule 14a-8(i)(7)" but "may [not] exclude proposals that concern only senior executive and director compensation"); *Xerox Corp.* (Mar. 25, 1993).

In accordance with the approach articulated in SLB No. 14A, the Staff has consistently concurred with the exclusion of proposals under Rule 14a-8(i)(7) when the proposals relate to employee compensation and benefits matters. *See Dollar Tree, Inc.* (May 2, 2022) (concurring with the exclusion of a proposal that requested a report explaining how the company's business strategy and incentives will enable competitive employment standards, including wages and benefits, finding that the proposal was related to ordinary business matters). A shareholder proposal that focuses on even just one aspect of non-executive employee compensation and benefits, such as stock-based incentives, relates to ordinary business operations and is thus excludable. *See, e.g.*, *Amazon.com, Inc.* (Apr. 8, 2022) (concurring with the exclusion of a proposal that requested an annual report assessing the distribution of stock-based incentives throughout the company's worldwide workforce, finding that the proposal was related to ordinary business operations); *Walmart Inc.* (Mar. 12, 2021) (concurring with the exclusion of a proposal that requested a report on the feasibility of providing two weeks of paid sick leave as an employee benefit); *McDonald's Corp.* (Feb. 19, 2021) (concurring with the exclusion of a proposal that requested a report on the feasibility of extending the paid sick leave policy adopted in response to COVID-19 as a standard employee benefit); and *Exelon Corp.* (Feb. 21, 2007) (concurring with the exclusion of a proposal to eliminate pension plan offsets). The Company's employee gift match program is part of its standard benefits package offered to all U.S. full and part-time colleagues, defined as employees working at least 20 hours per week. Because the Proposal focuses on non-executive employee benefits programs and their administration, the Company may exclude it from the 2025 proxy materials pursuant to Rule 14a-8(i)(7).

In addition, the Staff has consistently concurred that proposals that focus on a company's charitable contributions, including its practices with respect to matching employees' charitable contributions, may be excluded pursuant to Rule 14a-8(i)(7) because such contributions are ordinary business matters. *Netflix, Inc.* (Apr. 9, 2021) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that requested an annual report listing and analyzing charitable contributions made or committed during the prior year). The Staff has found that selecting from a range of communities and social issues to support, choosing beneficiaries and allocating financial and labor resources are ordinary business issues for management. *The Walt Disney Co.* (Nov. 20, 2014) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting that the company preserve the policy of acknowledging the Boy Scouts of America as a charitable organization to receive matching contributions) (hereinafter "*Disney 2014*"). Accordingly, a proposal focused primarily on relationships with or contributions made to specific organizations or types of organizations is excludable under Rule 14a-8(i)(7) as relating to ordinary business operations, both in instances where that focus is clear from the resolution and in instances where, despite a facially neutral resolution, that focus is clear from the proposal viewed in its entirety. *Johnson & Johnson* (Mar. 2, 2023) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting a report explaining the business rationale for the company's participation in corporate and executive membership organizations); s*ee also AT&T Inc.* (Jan. 15, 2021) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting a report listing and analyzing charitable contributions where the supporting statement referred to "highly divisive" charitable commitments); *Facebook, Inc.* (Mar. 26, 2021) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting a report listing and analyzing charitable contributions where the supporting statement referred to "highly divisive" charitable commitments, including contributions to specific organizations that supported certain racial justice movements); *JPMorgan Chase & Co.* (Feb. 28, 2018) (permitting exclusion under

Rule 14a-8(i)(7) of a proposal requesting an annual report concerning the company's charitable contributions where the supporting statement referenced contributions to specific organizations as relating to "contributions to specific types of organizations"); *PG&E Corp.* (Feb. 4, 2015) (permitting exclusion of a proposal requesting that the company form a committee to solicit feedback on the effect of anti-traditional family political and charitable contributions); *PepsiCo* (Feb. 24, 2010) (permitting exclusion of a proposal to prohibit support of organizations that reject or support homosexuality); *Target Corp.* (Mar. 31, 2010) (concurring in exclusion of a proposal requesting a report on charitable donations and a feasibility study of policy changes); *Wachovia Corp.* (Jan. 25, 2005) (permitting exclusion of a proposal recommending that the board disallow the payment of corporate funds to Planned Parenthood and any other organizations involved in providing abortion services); and *The Boeing Co.* (Jan. 21, 2005) (permitting exclusion under Rule 14a-8(i)(7) of a proposal directing the company to include the Boy Scouts of America as an eligible organization in the company's employee gift match program).

The Staff has made clear that decisions of this nature should be left to management and the board of directors and giving shareholders the ability to participate in these business decisions would constitute inappropriate shareholder involvement in the Company's ordinary business. When evaluating the administration of the Company's employee gift match program, management considers a range of factors, including the Company's business strategy and goals for its charitable giving program, which are outside the knowledge and expertise of shareholders. This decision-making is clearly part of the day-to-day management of the Company that relates to the Company's ordinary business operations. *See Disney 2014*. Therefore, the Proposal may be properly excluded pursuant to Rule 14a-8(i)(7).

*3) The Proposal may be excluded because it seeks to "micromanage" the Company.*

In assessing whether a proposal seeks to micromanage a company's ordinary business operations, the Staff evaluates not just the wording of the proposal but also the action called for by the proposal and the manner in which the action would affect a company's activities and management's discretion. *See Deere & Co.* (Jan. 3, 2022) (finding that a proposal requesting annual publication of the written and oral content of any employee-training materials offered to any subset of the company's employees by the company or with its consent, as well as any such materials which the company sponsored in the creation in whole or part, micromanaged the company); *The Coca-Cola Co.* (Feb. 16, 2022) (finding that a proposal requesting that the company submit any proposed political statement to the next shareholder meeting for approval prior to issuing the subject statement publicly micromanaged the company). For purposes of the micromanagement analysis, it is irrelevant whether the proposal raises issues with a broad societal impact. *See Staff Legal Bulletin No. 14E* (Oct. 27, 2009) (indicating that "a proposal [raising a significant policy issue] could be excluded under Rule 14a-8(i)(7)…if it seeks to micromanage the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment").

As discussed herein, the Company selected Benevity to administer its employee gift match program and continues to match employee donations to religious and faith-based organizations that are registered on the Benevity platform. Eligible employees may participate in the Company's employee gift match program by entering the Company's online Benevity portal

and contributing to charitable causes listed on Benevity's platform. The Company matches eligible employee donations up to certain specified amounts and subject to certain terms and conditions, as discussed above. As described above, according to Benevity's Terms of Use, Benevity determines, in its sole discretion, whether an organization is eligible to receive contributions through its platform by considering a number of factors. These factors include whether the organization is registered and in good standing with its local government or regulatory authority, is in compliance with all applicable laws and regulations, has not engaged in any conduct that violates any laws relating to terrorism, money laundering, fraud, bribery or other financial crime, does not publish content that condones violence or incites hatred and is not registered or operating in any country that is subject to economic or comprehensive sanctions imposed by relevant international authorities, among other factors. The Company does not play any role in determining whether a charitable organization conforms to Benevity's Terms of Use or is otherwise eligible for inclusion on the Benevity platform. The Company's management selected Benevity as the administrator of its employee gift match program based on, among other things, an assessment of the Company's operational needs and the ease of use of the Benevity platform. As the Staff articulated in the 1998 Release, a company's management and board of directors are best situated to make ordinary business decisions, such as those relating to selection of a third-party charitable donation platform to administer an aspect of the non-executive employee benefits. The decision of which vendor the Company uses to manage its employee gift match program is too granular for shareholders, as a group, to make an informed judgment about it. *See Alaska Air Group, Inc.* (Mar. 8, 2010) (noting that "[p]roposals concerning decisions relating to vendor relationships are generally excludable under [R]ule 14a-8(i)(7)"); *see also Continental Airlines, Inc.* (Mar. 25, 2009) (noting that "decisions relating to vendor relationships" relate to ordinary business operations). The Proposal therefore micromanages the Company and is excludable from the 2025 Proxy Statement under Rule 14a-8(i)(7). The Proposal does not raise policy issues that transcend the Company's ordinary business matters.

In the 1998 Release, the Commission stated that proposals relating to ordinary business matters but focusing on sufficiently significant policy issues generally would not be excludable, because the proposals would "transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote." This approach allows shareholders to have the "opportunity to express their views…[on] proposals that raise sufficiently significant social policy issues." *See* 1998 Release. The Staff reiterated this guidance in November 2021 and retracted prior guidance with respect to the "nexus requirement," stating that the "[S]taff will no longer focus on determining the nexus between a policy issue and the company, but will instead focus on the social policy significance of the issue that is the subject of the shareholder proposal. In making this determination, the staff will consider whether the proposal raises issues with a broad societal impact, such that they transcend the ordinary business of the company." Section B.2. of SLB No. 14L.

As described above, the Proposal and supporting statement cite alleged discrimination against employees based on their religion or religious views. The Staff has made clear that the mere mention of an issue with a broad societal impact, or the mere fact that an ordinary business issue might tangentially impact society more broadly, is insufficient to transform a proposal that is otherwise about ordinary business issues into one that pertains to "high-level direction on large strategic corporate matters" that the Staff confirmed in SLB No. 14L as

deserving shareholder oversight and vote. While "proposals…focusing on sufficiently significant social policy issues…generally would not be considered to be excludable," the Staff has indicated that proposals relating to both ordinary business matters and significant social policy issues may be excludable in their entirety in reliance on Rule 14a-8(i)(7) if the significant social policy issues do not cause the proposal to "transcend the day-to-day business matters." *See* 1998 Release. The Staff has consistently permitted exclusion of shareholder proposals where the proposal focused on ordinary business matters, even though it also related to a potential significant policy issue. *See, e.g.*, *JPMorgan Chase & Co.* (Mar. 29, 2024) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting that the company publish a review of whether and to what extent it requested that its clients deny their products or services to certain customers or categories of customers, or has demanded such restrictions as a condition of the company's continuing to do business with said clients); *PetSmart, Inc.* (Mar. 24, 2011) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that addressed the potential significant policy issue of the humane treatment of animals but also covered a broad scope of laws ranging from animal abuse to record keeping violations); and *CIGNA Corp.* (Feb. 23, 2011) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that addressed the potential significant policy issue of access to affordable health care but also asked the company to report on expense management).

In this instance, although the Proposal touches on alleged religious discrimination, its focus is on the Company's general employee compensation and benefits matters and its decisions regarding charitable contributions, which are ordinary business matters. The Staff has previously permitted exclusion of proposals that facially pertained to social issues such as discrimination, while primarily focusing on the company's ordinary business matters. *See, e.g.*, *PayPal Holdings, Inc.* (Apr. 10, 2023) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that requested revision of the company's transparency reports to include explanations of the number and categories of account suspensions and closures that may reasonably be expected to limit freedom of expression or access to information or financial services); *Nike, Inc.* (May 1, 2020) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that requested a report on the risks of company involvement in the debate about state policies on abortion and other "hot-button" social issues); *Amazon.com, Inc.* (Mar. 23, 2018) (permitting exclusion under Rule 14a-8(i)(7) of a proposal concerning the company's placement of promotional or other marketing material on its online sites that produce and disseminate content that expresses hatred or intolerance); and *Disney 2014*.

Despite the reference to "religious discrimination," the Proposal is principally focused on the disclosure of the charitable contributions benefit which is a part of the Company's employee compensation and benefits program and which, as stated, does not exclude charitable gifts or matched contributions to religious or faith-based organizations. Accordingly, the Proposal concerns an ordinary business matter that is not transcended by a significant social policy issue and is excludable under Rule 14a-8(i)(7).

**B. Under Rule 14a-8(i)(3), the Proposal may be excluded because the Proposal contains materially false or misleading statements and is impermissibly vague.**

*1) Rule 14a-8(i)(3) Background*

Rule 14a-8(i)(3) permits a company to exclude all or portions of a shareholder proposal "[i]f the proposal or supporting statement is contrary to any of the Commission's proxy rules, including Rule 14a-9, which prohibits materially false or misleading statements in proxy soliciting materials." Specifically, Rule 14a-9(a) provides that "[n]o solicitation subject to this regulation shall be made by means of any proxy statement, form of proxy, notice of meeting or other communication, written or oral, containing any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to the solicitation of a proxy for the same meeting or subject matter which has become false or misleading." The Staff has determined that shareowner proposals may be excluded pursuant to Rule 14a-8(i)(3) where "the resolution contained in the proposal is so inherently vague or indefinite that neither the stockholders voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires." *Staff Legal Bulletin No. 14B* (Sept. 15, 2004) ("SLB No. 14B"). In SLB No. 14B, the Staff articulated that "reliance on rule 14a-8(i)(3) to exclude or modify a statement may be appropriate where…the company demonstrates objectively that a factual statement is materially false or misleading."

In addition, in accordance with SLB No. 14B, the Staff has consistently permitted exclusion of shareholder proposals under Rule 14a-8(i)(3) where the proposal contained an essential term or phrase that, in applying the particular proposal to the company, was unclear, such that neither the company nor shareholders would be able to determine with any reasonable certainty what actions or measures the proposal requires. *See, e.g.*, *Cisco Systems, Inc.* (Oct. 7, 2016) (permitting exclusion under Rule 14a-8(i)(3) of a proposal requesting that the board "not take any action whose primary purpose is to prevent the effectiveness of shareholder vote without a compelling justification for such action," where it was unclear what board actions would "prevent the effectiveness of [a] shareholder vote" and how the essential terms "primary purpose" and "compelling justification" would apply to board actions); *Pfizer Inc.* (Dec. 22, 2014) (permitting exclusion under Rule 14a-8(i)(3) of a proposal requesting that the board adopt a policy that "the Chair of the Board of Directors shall be an independent director who is not a current or former employee of the company, and whose only nontrivial professional, familial or financial connection to the company or its CEO is the directorship," where it was unclear whether the proposal intended to restrict or not restrict stock ownership of directors and any action taken by the company to implement the proposal, such as prohibiting directors from owning nontrivial amounts of company stock, could be significantly different from the actions envisioned by shareholders); *AT&T Inc.* (Feb. 21, 2014) (permitting exclusion under Rule 14a-8(i)(3) of a proposal requesting that the board review the company's policies and procedures relating to "directors' moral, ethical and legal fiduciary duties and opportunities" to ensure the protection of privacy rights, where it was unclear how the essential term "moral, ethical and legal fiduciary" applied to the directors' duties and opportunities); *General Dynamics Corp.* (Jan. 10, 2013) (permitting exclusion under Rule 14a-

8(i)(3) of a proposal requesting a policy that, in the event of a change of control, there would be no acceleration in the vesting of future equity pay to senior executives, "provided that any unvested award may vest on a pro rata basis," where it was unclear how the essential term "pro rata" applied to the company's unvested awards); *The Boeing Co.* (Jan. 28, 2011, recon. granted Mar. 2, 2011) (permitting exclusion under Rule 14a-8(i)(3) of a proposal requesting that senior executives relinquish preexisting "executive pay rights," where it was unclear how to apply the essential term "executive pay rights").

2) *The Proposal may be excluded because it contains materially false or misleading statements.*

In describing the Company's employee gift match program, the supporting statement of the Proposal states that the Company "will not match employee gifts to any group that, *in its determination*, 'incites hatred or promotes discrimination'" (emphasis added). But, as explained above, the Proponent cites to *Benevity's* policy. The Company does not play any role in determining whether a charitable cause conforms to Benevity's Terms of Use and the Company does not determine if a charitable cause is eligible for inclusion on the Benevity platform. The Proposal incorrectly conflates the policies of Benevity with those of the Company and, accordingly, is materially false or misleading and may be excluded from the 2025 Proxy Statement pursuant to Rule 14a-8(i)(3).

3) *The Proposal may be excluded because it is impermissibly vague and indefinite.*

The Proposal requests that the Board evaluate and issue a report on how excluding religious charities from the employee gift match program impacts the risks related to religious discrimination against employees. In the Proponent's view, the employee gift match program's policy allows it to "pick and choose certain viewpoints" and "[screen] out some or all religious charities."

However, as discussed above, neither Benevity nor the Company have policies that exclude religious charities from eligibility under the Company's employee gift match program. Given that the Company does not have a policy "excluding religious charities from its employee-gift match program," it is unclear what the Company is being asked to evaluate and issue a report about in order to implement the Proposal, and shareholders could mistakenly believe that the Company has such a policy. It likewise remains unclear which risks or activities the Proposal is seeking to be addressed in the requested report, as the Proposal asks the Company to prepare a report on the risks of doing something that the Company does not currently do. The Proponent would need to make major substantive revisions in order to allow shareholders and the Company to determine with any reasonable certainty exactly what actions or measures the Proposal requires.

Accordingly, the Company may exclude the Proposal from its 2025 Proxy Materials under Rule 14a-8(i)(3) on the basis that the Proposal is inherently vague and indefinite in violation of Rule 14a-9.

**C. Under Rule 14a-8(i)(5), the Proposal may be excluded because the Proposal relates to operations that are not economically significant or otherwise significantly related to the Company's business.**

*1) Rule 14a-8(i)(5) Background*

Rule 14a-8(i)(5) provides that a shareholder proposal may be excluded "[i]f the proposal relates to operations which account for less than 5 percent of the company's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the company's business." In Staff Legal Bulletin No. 14I (Nov. 1, 2017) ("SLB No. 14I"), the Staff noted that it "will focus, as the rule directs, on a proposal's significance to the company's business when it otherwise relates to operations that account for less than 5% of total assets, net earnings and gross sales." The Staff further noted in SLB No. 14I that "[w]here a proposal's significance to a company's business is not apparent on its face, a proposal may be excludable unless the proponent demonstrates that it is 'otherwise significantly related to the company's business."

Following SLB No. 14I, the Staff has consistently concurred with the exclusion of proposals consistent with the underlying purpose of Rule 14a-8(i)(5), even where such proposals raise an issue of social or ethical significance. *See, e.g.*, *Reliance Steel & Aluminum Co.* (Apr. 2, 2019) (concurring with the exclusion of a proposal requesting a report on political contributions and expenditures that contains information specified in the proposal) and *Dunkin' Brands Group, Inc.* (Feb. 22, 2018) (concurring with the exclusion of proposal seeking a report assessing the environmental impacts of continuing to use K-Cup Pods brand packaging). Proposals that merely touch on issues of social or ethical significance may be excluded under Rule 14a-8(i)(5), notwithstanding their importance in the abstract, unless those issues significantly relate to the Company's business.

*2) The Proposal may be excluded because it relates to operations that account for less than 5% of the Company's total assets, net earnings and gross sales.*

The Proposal relates to an employee compensation and benefits program benefit that accounts for less than 5 percent of the Company's total assets, net earnings and gross sales. In particular, the Proposal addresses risks related to the Company's employee gift match program. The Company's aggregate charitable contributions resulting from the employee gift match program represents less than 1% of the Company's total assets in its most recently completed fiscal year, 2023. The Company also expects its expenses related to the employee gift match program to represent a similarly insignificant percentage based on the Company's total assets, net earnings and gross sales for fiscal years 2024 and 2025. Accordingly, it is clear that the Proposal does not relate to operations that are economically significant to the Company and is therefore excludable under Rule 14a-8(i)(5).

*3) The Proposal may be excluded because it is not otherwise significantly related to the Company's business.*

The Company is a globally integrated payments company with card-issuing, merchant-acquiring and card network businesses that offer products and services to a broad range

of customers, including consumers, small businesses, mid-sized companies and large corporations around the world. The Company's employee gift match program is part of its standard benefit package offered to all U.S. full and part-time colleagues, defined as employees working at least 20 hours a week. The program is just one of the employee benefits within the Company's employee compensation and benefits program, meaning it bears no significant relationship to the Company's actual business of issuing cards and processing payments. The Proposal's significance to the Company's business is not apparent on its face, and the Proponent has provided no factual or other support in the Proposal to satisfy its burden of demonstrating that the Proposal is otherwise significantly related to the Company's business. Therefore, the Proposal is excludable under Rule 14a-8(i)(5).

**CONCLUSION**

For the foregoing reasons, the Company respectfully requests that the Staff confirm that it will not recommend enforcement action if the Company excludes the Proposal from its 2025 Proxy Statement.

If you have any questions or require additional information, please do not hesitate to contact James J. Killerlane III at (212) 640-2000 or corporatesecretarysoffice@aexp.com. If the Staff is unable to agree with our conclusions without additional information or discussions, we respectfully request the opportunity to confer with members of the Staff prior to issuance of any written response to this letter.

Sincerely,

James J. Killerlane III
Corporate Secretary and Chief Governance Officer

Enclosure

cc: Lilian Price, via email at [redacted]
Inspire Investing, LLC, via email at [redacted]
Francesca L. Odell, Cleary Gottlieb Steen & Hamilton LLP
Lillian Tsu, Cleary Gottlieb Steen & Hamilton LLP

**Exhibit A**

The Proposal

See attached.

**Via Email**

November 15, 2024

Corporate Secretary & Chief Governance Officer
American Express Company
200 Vesey Street
New York, NY 10285

**Re: Proposal regarding Report on Employee Charitable Giving Match**

Dear Corporate Secretary & Chief Governance Officer,

I hereby submit the enclosed shareholder proposal ("Proposal") for inclusion in the American Express Company (the "Company") proxy statement to be circulated to Company shareholders in conjunction with the next annual meeting of shareholders. The Proposal is submitted under Rule 14(a)-8 (Proposals of Security Holders) of the United States Securities and Exchange Commission's proxy regulations. The resolution at issue relates to the subject described below.

Proponent: Lilian Price
Company: American Express Company
Subject: Report on Employee Charitable Giving Match

Inspire Investing, LLC submits the Proposal on behalf of, and with the permission of, Lilian Price ("Shareholder"), who has continuously held Company stock with a value exceeding $2,000 for at least 3 years prior to and including the date of this Proposal and who intends to hold these shares through the date of the Company's 2025 annual meeting of shareholders. A letter from Lilian Price authorizing Inspire Investing, LLC to submit this proposal on his behalf is enclosed.

A Proof of Ownership letter attesting to the Shareholder's ownership as of the date of this proposal's submission is forthcoming. Copies of correspondence or a request for a "no-action" letter should be sent to me and Tim Schwarzenberger at Inspire Investing [redacted] and emailed to [redacted]

Sincerely,

*Robert Netzly*

Robert Netzly
Chief Executive Officer

*Tim Schwarzenberger*

Tim Schwarzenberger, CFA
Director of Shareholder Engagement

Enclosure: Shareholder Proposal

**Via Email**

November 15, 2024

Corporate Secretary & Chief Governance Officer
American Express Company
200 Vesey Street
New York, NY 10285

**Re: Authorization to File Shareholder Proposal**

Dear Corporate Secretary & Chief Governance Officer,

In accordance with Rule 14a-8 of the General Rules and Regulations of the Securities and Exchange Act of 1934, the undersigned (the "Proponent") authorizes Inspire Investing, LLC to file a shareholder proposal on the Proponent's behalf with American Express (the "Company") for inclusion in the Company's 2025 proxy statement. The proposal at issue relates to the subject described below.

Proponent: Lilian Price
Company: American Express Company
Subject: Report on Employee Charitable Giving Match

The Proponent gives Inspire Investing, LLC the authority to address, on the Proponent's behalf, any and all aspects of the shareholder proposal, including drafting and editing the proposal, representing the Proponent in engagements with the Company, entering into any agreement with the Company, and designating another entity as lead filer and representative of the Proponent. The Proponent understands that the Proponent's name may appear on the company's proxy statement as the filer of the aforementioned proposal, and that the media may mention the Proponent's name in relation to the proposal.

The Proponent supports this proposal and authorizes Inspire Investing, LLC to write a more detailed statement of support of the proposal on the Proponent's behalf.

Lilian Price (the "Proponent") has continuously owned Company stock with a value exceeding $2,000 for at least 3 years prior to and including the date of this Proposal and intends to hold these shares through the date of the Company's 2025 annual meeting of shareholders.

Pursuant to interpretations of Rule 14a-8 by the U.S. Securities and Exchange Commission staff, I initially propose the following times for a telephone conference to discuss this proposal:

November 25, 2024 @ 11:00 pm Eastern Time
December 3, 2024 @ 11:00 pm Eastern Time

If these times prove inconvenient, please suggest some other times to speak. Feel free to contact me at [redacted] copying Inspire Investing, LLC [redacted] so that we can determine the mode and method of that discussion.

Sincerely,

DocuSigned by:
402A45683D19401...

Lilian Price 11/13/2024 | 15:58:36 PST

## Report on Employee Charitable Giving Match

**Supporting Statement:**

American Express Company is one of the largest companies in the United States and employs over 74,000 people. As a major employer, American Express should support the religious freedom of its employees. American Express is already required to comply with many laws prohibiting discrimination against employees based on their religious status and views.

Respecting diverse religious views allows American Express to attract the most qualified talent, promote a diverse and vibrant business culture, and is a key component to make sure it fully engages each of its employees. One of the best ways companies can do that is by supporting employee philanthropy.

Employee-matching gift programs are an important way to foster volunteerism and community engagement within company workforces. But the 2024 edition of the Viewpoint Diversity Score Business Index[1] found that 61% of scored companies exclude or threaten to exclude religious organizations from their employee-match programs for the organizations' religious status or advocacy. This includes American Express, which appears to exclude religious programs from its gift match program and states that it will not match employee gifts to any group that, in its determination, "incites hatred or promotes discrimination." [2]

American Express should support philanthropic freedom for employees of every religious and political stripe, not pick and choose certain viewpoints and certainly not screening out some or all religious charities. This tells employees that their faith is not welcome at work.

According to the 2023 Freedom at Work survey, 60% of employees were concerned that their company would punish them for expressing their religious or political views at work, and 54% said they feared the same for sharing these views even on their private social media accounts.[3] American Express can partially address this shortcoming by allowing employees to direct matching gifts to religious charities.

Recent Supreme Court decisions in *Groff v. DeJoy* and *Muldrow v. City of St. Louis* have also clarified that religious protections for employees extend to all terms, conditions, and privileges of employment, not just monetary compensation. American Express may be legally exposed if it does not support employee philanthropy for religious employees on equal terms with non-religious employees.

**Resolved**: Shareholders request the Board of Directors conduct an evaluation and issue a report within the next year, at reasonable cost and excluding proprietary information and disclosure of anything that would constitute an admission of pending litigation, evaluating how excluding religious charities from its employee-gift match program impacts the risks related to religious discrimination against employees.

---

[1] https://www.viewpointdiversityscore.org/.

[2] https://www.viewpointdiversityscore.org/company/american-express

[3] https://www.viewpointdiversityscore.org/polling.