UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT COMPANY ACT OF 1940
Release No. 36269 / July 27, 2026

ADMINISTRATIVE PROCEEDING
File No. 3-22662

In the Matter of **SIMPLIFY ASSET MANAGEMENT, INC.** **Respondent.**	**ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS, PURSUANT TO SECTION 9(f) OF THE INVESTMENT COMPANY ACT OF 1940, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 9(f) of the Investment Company Act of 1940 ("Investment Company Act") against Simplify Asset Management, Inc. ("Simplify" or "Respondent").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer") which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting the findings herein, except as to the Commission's jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings, Pursuant to Section 9(f) of the Investment Company Act of 1940, Making Findings, and Imposing a Cease-and-Desist Order ("Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds[1] that

Summary

1. Between July 2021 and November 2024, Simplify, a registered investment adviser, caused (1) Trust A to engage in prohibited affiliate transactions with an exchange-traded fund ("ETF") client registered under the Investment Company Act, (2) another ETF client's failure to meet the conditions of an exemptive rule allowing the ETF to engage in derivative transactions, and to make required filings with the Commission related to this failure, and (3) other ETF clients to fail to provide notices to fund investors regarding returns of capital. Accordingly, Simplify caused violations of Investment Company Act provisions intended to prevent conflicted transactions and risk that may harm fund investors, and to ensure disclosure of material information about fund distributions to fund investors.

2. *First*, Simplify caused Trust A to engage in two prohibited affiliate transactions with the Simplify Propel Opportunities ETF ("SURI") in February and June 2023. Trust A was an affiliated person of Simplify under Investment Company Act Section 17(a) because it had an ownership stake in Simplify. Since Simplify was an affiliated person of SURI because it was SURI's investment adviser, Trust A was also a second-tier affiliate of SURI under Investment Company Act Section 17(a). Through the two transactions, Trust A transferred shares of equity securities it owned to SURI in exchange for SURI shares, which provided Trust A with certain tax benefits. Because Simplify recommended and facilitated these transactions, Simplify caused Trust A to violate Investment Company Act Section 17(a)(1).

3. *Second*, during two episodes in April and May 2024, Simplify caused the Simplify Macro Strategy ETF ("FIG") to exceed permissible leverage thresholds under Investment Company Act Rule 18f-4, through transactions that, without the Rule's exemption, would have been prohibited by Investment Company Act Section 18(f)(1). These breaches required Simplify to notify the board of trustees ("Board") of the Simplify Exchange Traded Funds Trust ("Simplify Trust"), and to provide the Board with a written explanation within 30 days of how FIG came back into compliance with these leverage thresholds. Simplify failed to meet these Rule 18f-4 conditions because it only notified the Board of the breaches months later in August 2024. Additionally, Simplify caused FIG's failure to file with the Commission disclosures of the leverage breaches—which occurred twice and extended for five business days or more—within one business day after they occurred. FIG did not file such disclosures until August 2024. Accordingly, Simplify caused FIG to violate Investment Company Act Section 18(f)(1) and Rule 30b1-10.

4. *Third*, between July 2021 and June 2024, Simplify caused seven ETFs it advised, including SURI (collectively, the "Simplify ETFs"), to fail to provide contemporaneous notices to fund investors that a portion of the dividends the Simplify ETFs distributed to them was a return of

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[1] The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

fund capital rather than income, as required by Investment Company Act Section 19(a) and Rule 19a-1.

5. Additionally, between July 2021 and June 2026, SURI, FIG, and the other Simplify ETFs failed to adopt and implement policies and procedures reasonably designed to prevent violations of the federal securities laws. As a result, Simplify caused these ETFs to violate Investment Company Act Rule 38a-1.

Respondent

6. **Simplify**, a Delaware corporation, is an investment adviser that has been registered with the Commission since August 2020. Simplify's principal place of business is Las Vegas, Nevada. As of July 31, 2025, Simplify had $9.63 billion in regulatory assets under management.

Other Relevant Entities

7. The **Simplify Trust** is a Delaware statutory trust organized as a series trust on February 28, 2020. As of June 30, 2025, the most recent reporting date of Simplify Trust's annual shareholder report, the Simplify Trust consisted of 34 series funds structured as ETFs, each of which are advised by Simplify. The Simplify Trust's principal place of business is New York, New York.

8. **SURI** is a series ETF in the Simplify Trust that is advised by Simplify and sub-advised by Sub-Adviser B, and which began operation on February 7, 2023. SURI concentrates its investments in the securities of companies in the biotechnology, pharmaceuticals, healthcare technology, life sciences tools, and services industries. As of January 5, 2026, SURI held $75.1 million in net assets.

9. **FIG** was a series ETF in the Simplify Trust that was advised by Simplify, and which began operation on May 16, 2022. According to its summary prospectus dated October 28, 2022, FIG's investment strategy was to create "a long bias cross-asset portfolio by investing in equity, fixed income, and alternative ETFs and derivatives." As of March 31, 2024, FIG held $26.9 million in net assets. FIG was liquidated on May 24, 2025.

10. The **Simplify ETFs** are seven series ETFs in the Simplify Trust that are advised by Simplify and that made periodic distributions to shareholders as of December 31, 2024. The Simplify ETFs are: SURI; Simplify Volatility Premium ETF; Simplify High Yield PLUS Credit Hedge ETF; Simplify U.S. Equity PLUS GBTC ETF; Simplify Aggregate Bond PLUS Credit Hedge ETF; Simplify U.S. Equity Downside Convexity ETF; and Simplify MBS ETF.

11. **Trust A** is organized as a domestic trust. Trust A holds the largest equity position in Simplify, which currently is approximately a 25% fully diluted ownership interest. Trust A has held an ownership stake in Simplify in excess of 20% since at least October 1, 2021. As of March 31, 2026, Trust A also owned approximately 90.3% of the outstanding shares of SURI.

12. **Sub-Adviser B**, a limited liability company, is a registered investment adviser that is a sub-adviser to SURI. Sub-Adviser B's investment focus is the life sciences industry.

Simplify and Trust A Were Affiliates of SURI

13. Investment Company Act Section 17(a)(1) makes it unlawful for "any affiliated person or promoter of or principal underwriter for a registered investment company [("RIC")], or any affiliated person of such a person, promoter, or principal, underwriter, acting as principal" to "knowingly [] sell any security or other property to such [RIC] or to any company controlled by such [RIC]" subject to meeting certain conditions or to seeking relief from the Commission pursuant to Section 17(b) in the form of an exemptive order. This provision places restrictions on transactions between RICs and their affiliated persons and affiliated persons of such persons ("second-tier affiliates"). Under Section 2(a)(3)(A), an affiliated person of another person is defined to include "any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting securities of such other person." Under Section 2(a)(42), "voting security" means any security presently entitling the owner or holder thereof to vote for the election of directors of a RIC. Under Section 2(a)(3)(E), an affiliated person of a RIC includes any investment adviser of such RIC.

14. Simplify, as investment adviser to SURI, was an affiliated person of SURI prior to and at the time of the 2023 in-kind subscriptions by Trust A described below.

15. On October 1, 2021, Trust A held an approximately 25% fully diluted equity interest in Simplify through preferred shares. Trust A's ownership percentage in Simplify remained at a similar level at the time of the 2023 in-kind SURI subscriptions discussed below. Trust A's preferred shares were voting securities because they gave Trust A the right to select two of the four directors on Simplify's board of directors. Therefore, Trust A was an affiliated person of Simplify and a second-tier affiliate of SURI.

Simplify Caused Trust A to Violate Investment Company Act Section 17(a)(1)

16. During a meeting of the Board on October 10, 2022, Simplify recommended that the Board vote to approve the formation of SURI. Simplify represented to the Board that it would act as the investment adviser to SURI and would engage Sub-Adviser B as a sub-adviser to SURI. Simplify also represented to the Board that it planned to implement a derivatives strategy to enhance the returns of SURI, while Sub-Adviser B was responsible for selecting the securities for the underlying portfolio. Representatives of Sub-Adviser B also presented information regarding Sub-Adviser B to the Board at this meeting. One such representative who attended the meeting was a Sub-Adviser B portfolio manager, Person C, who was to be designated a portfolio manager of SURI. Person C was also a trustee of Trust A. The Board unanimously approved the formation of SURI at the meeting.

17. In a January 30, 2023, memorandum to the Board, Simplify stated that Trust A was going to be a seed investor in SURI. According to the memorandum, Trust A planned to contribute approximately $71.5 million of various securities to subscribe to SURI. This in-kind

transaction, according to the memorandum, was a "tax-free exchange" that did not require Trust A to assume any obligation to pay for any accrued investment gains it received as a result of the exchange. An appendix included with the memorandum contained details concerning the securities that would be transferred to SURI in the contemplated in-kind transaction.

18. In the same memorandum, Simplify also apprised the Board that it had determined that Trust A "is not an affiliate, or affiliate of an affiliate, of [Simplify] Trust, . . . [Simplify], . . . [Sub-Adviser B] or [an] underwriter." Simplify did not share with the Board the basis for this conclusion.

19. In a written consent, the Board approved Trust A's proposed in-kind subscription to SURI. This seed transaction occurred on February 7, 2023, and SURI launched on the same day.

20. On June 20, 2023, Simplify provided the Board with another memorandum outlining a second proposed in-kind subscription of SURI shares involving Trust A, which was valued at approximately $35.7 million. This proposed transaction was not a pro-rata addition to the existing SURI portfolio because it included new securities and different position weightings from the securities in the ETF's portfolio at the time of the transaction. Like it did in the first memorandum, Simplify disclosed to the Board a list of securities that Trust A would exchange for SURI shares. This memorandum did not discuss whether or not Trust A was an affiliated person of either SURI or Simplify, nor did it discuss the tax benefits to Trust A of the proposed transaction. The Board approved this second in-kind subscription on June 20, 2023; as of that date, Trust A held 97.6% of the outstanding shares of SURI.

21. The transaction was executed the following day on June 21, 2023. No applications for exemptive relief under Investment Company Act Section 17(b) were submitted to the Commission for either the February 2023 or the June 2023 transactions.

22. Sub-Adviser B entered into an agreement with a Person C to act as the portfolio manager of SURI who, in essence, would manage the assets that were transferred in the in-kind transactions. Simplify apprised the Board of Person C's role as portfolio manager, which was also described in SURI's statutory prospectuses dated November 15, 2022, and November 1, 2023, as a "Portfolio Manager of Sub-Adviser" and as one of the portfolio managers of SURI.

23. Because SURI acquired securities from Trust A through the 2023 in-kind subscriptions and did not obtain an exemptive order from the Commission under Investment Company Act Section 17(b), Trust A violated Investment Company Act Section 17(a)(1).

24. Because Simplify recommended the launch of SURI to the Board, recommended the transactions with Trust A to the Board, represented to the Board that the transactions were not affiliate transactions under Investment Company Act Section 17(a)(1), and recommended that Person C be appointed portfolio manager of SURI, Simplify caused Trust A's violations of Investment Company Act Section 17(a)(1).

Investment Company Act Section 18(f)(1) and Rule 18f-4

25. Investment Company Act Section 18(f)(1) prohibits a registered open-end investment company from issuing any senior security other than borrowing from a bank. Investment Company Act Section 18(g), in relevant part, defines "senior security" as "any bond, debenture, note, or similar obligation or instrument constituting a security and evidencing indebtedness." Among other things, the restrictions set out in Section 18 reflect Congress' concerns regarding "excessive borrowing and the issuance of excessive amounts of senior securities by funds when these activities increase unduly the speculative character of funds' junior securities . . . ." *See Use of Derivatives by Registered Investment Companies and Business Development Companies*, Investment Company Act Rel. No. 34084 (Nov. 2, 2020) at 15. Elsewhere in the Investment Company Act, Sections 1(b)(7) and 1(b)(8) "declare that 'the national public interest and the interest of investors are adversely affected' when funds 'by excessive borrowing and the issuance of excessive amounts of senior securities increase unduly the speculative character' of securities issued to common shareholders and when funds 'operate without adequate assets or reserves.'" *Id.* at 20.

26. Investment Company Act Rule 18f-4 exempts RICs from the requirements of various provisions of Section 18(f)(1) for funds that engage in derivative transactions that involve senior securities, if certain conditions are satisfied. Under Rule 18f-4(c)(1), the relevant fund must appoint a designated derivatives risk manager and adopt a written derivatives risk management program "which must include policies and procedures that are reasonably designed to manage the fund's derivatives risks." Rule 18f-4(c)(1)(ii) requires that the derivative risk management program have risk guidelines that "specify levels of the given criterion, metric, or threshold that the fund does not normally expect to exceed, and measures to be taken if they are exceeded." Funds relying on the Rule 18f-4 exemption are required to comply with an outer limit on leverage risk based on a relative "value at risk" ("VaR") test that compares the RIC's VaR to the VaR of a "designated reference portfolio" (the "VaR test"). The Rule generally requires that a RIC's VaR test remain at or below 200% ("relative VaR test threshold") and that a RIC determine its compliance with this threshold at least once every business day. Rule 18f-4(c)(2)(ii) requires a fund to calculate the VaR test on each business day.

27. Under Rule 18f-4(c)(2)(ii), if a fund's VaR test exceeds certain thresholds under the applicable VaR model, the affected fund "must come back into compliance promptly after such determination, in a manner that is in the best interests of the fund and its shareholders." With respect to exceedances and other risks, Rule 18f-4(c)(1)(v) requires the derivatives risk manager to identify circumstances when it is appropriate to notify portfolio management of any exceedances identified in the VaR models and to then inform portfolio management in a "timely manner" and the fund board, as appropriate, of "material risks arising from the fund's derivatives transactions . . . ."

28. In situations where a RIC exceeds the relative VaR test threshold for five business days or more, Rule 18f-4(c)(2) sets out notifications that the derivatives risk manager of the fund must provide as a condition of relying on the Rule. Specifically, the derivatives risk manager is required to submit a written report to the fund's board of directors to "explain how and by when

(*i.e.*, number of business days) the derivatives risk manager reasonably expects that the fund will come back into compliance." In addition, within 30 calendar days, the derivatives risk manager is required to submit a second written report that explains "how the fund came back into compliance" and, if the fund remains out of compliance with its VaR test at that time, update the prior written report about the fund's progress in coming back into compliance with its VaR test. The derivatives risk manager also must "analyze the circumstances that caused the fund to be out of compliance for more than five business days and update any program elements as appropriate to address those circumstances."

FIG and its Company D Trades

29. According to the FIG summary prospectus filed with the Commission on October 28, 2022, FIG was an "actively managed" ETF that "seeks to create a long bias cross-asset portfolio." The summary prospectus defined a "long bias cross-asset portfolio" as one that is a risk balanced portfolio of asset classes structured to provide equity-like returns with less risk and more consistent returns." The summary prospectus also stated that FIG invested in "equity, fixed income, and alternative ETFs, and derivatives." The summary prospectus further stated that FIG "may invest up to 20% of the Fund's portfolio in derivatives," which included "put and call options on equities," among other securities. The FIG summary prospectuses filed with the Commission on November 1, 2023, and November 1, 2024, contained these same disclosures concerning derivatives.

30. Beginning on August 9, 2023, the Simplify portfolio manager overseeing FIG began to take a derivative position in a single issuer, Company D, which involved purchasing and selling put and call options for Company D's common stock.

31. This use of options acts as a form of leverage that permits an investor to have greater exposure to the price movements of an underlying asset using less investment capital than it would cost to directly purchase the underlying asset. This greater exposure also provides an opportunity to earn a higher investment gain or incur a greater loss relative to holding the underlying asset. These put and call options generated proceeds for FIG during the options transactions themselves and also obligated FIG to either purchase or sell shares of Company D common stock in the future.

32. In order for FIG to undertake the Company D trades, which involved leverage through the use of derivatives, FIG had to comply with the conditions set out in Investment Company Act Rule 18f-4. Otherwise, FIG would violate Investment Company Act Section 18(f)(1), which prohibited FIG from issuing senior securities including certain derivatives that create leverage.

Simplify Caused FIG to Violate Investment Company Act Section 18(f)(1) and Rule 30b1-10

33. On April 11, 2024, the FIG portfolio manager initiated a new derivatives position in Company D by purchasing and selling put and call options. The portfolio manager structured the position to be profitable if the price of Company D's common stock declined. The risk exposure

for this options position was $3.4 million, which represented more than 13% of the total value of the FIG portfolio at the time.

34. The price of Company D's common stock rose in late April 2024 and continued to rise throughout May 2024.

35. Beginning on April 26, 2024, and through May 2, 2024, the VaR test for FIG exceeded the applicable threshold for the fund. For example, on April 26, 2024, Simplify's chief risk officer, who was also FIG's derivatives risk manager, informed FIG's portfolio manager that FIG's VaR was approximately 253% of the designated reference portfolio, primarily due to the Company D position. The portfolio manager reduced the position's exposure by purchasing call options for Company D common stock. But, because the price of Company D common stock was volatile and continued to increase, FIG's VaR test continued to exceed the applicable threshold. FIG's daily VaR test rose as high as 291% during this period. Simplify's chief risk officer urged the portfolio manager to reduce the position to address this risk on a daily basis during this period.

36. On May 2, 2024, FIG lost over 8% of its value primarily because the portfolio manager partially unwound the Company D investment to reduce the fund's exposure. By May 3, 2024, the portfolio manager reduced FIG's exposure to Company D by enough to bring the fund's VaR test below its 200% threshold.

37. However, by the following trading day, May 6, 2024, and continuing until May 16, 2024, FIG's VaR test again exceeded its 200% relative VaR test threshold because of the remaining Company D position in the portfolio. During this second period, FIG's VaR test ranged from approximately 224% to as high as 251%.

38. The Board was not informed of either breach of FIG's 200% relative VaR test threshold until August 8, 2024, when Simplify's chief risk officer emailed Board members to notify them that the VaR test had exceeded this threshold during the two episodes described above.

39. As an additional condition of relying on Rule 18f-4, subsection (c)(7) of the Rule prescribes that a fund "that experiences an event [described in Form N-RN]," such as exceeding VaR thresholds set out in the rule for a period of five business days or more, "must file with the Commission a report on Form N-RN within the period and according to the instructions specified in that form." The instructions for Form N-RN require a fund to report such an event within one business day of its occurrence.

40. Investment Company Act Rule 30b1-10 states that every "registered open-end management investment company" among others "that experiences an event specified on Form N-RN, must file with the Commission a current report on Form N-RN within the period and according to the instructions specified in that form."

41. Although FIG had two such episodes between April 26, 2024, and May 16, 2024, each lasting five or more business days, FIG did not file with the Commission Forms N-RN until August 9, 2024.

42. In a memorandum to the Board dated August 23, 2024, Simplify discussed an annual review of the derivatives risk program in which it described the Company D trades, the related VaR test exceedances, and delays in filing Forms N-RN. The memorandum did not discuss the specific updates Simplify planned to adopt and implement with respect to the derivatives risk management program to address these events. The memorandum noted only that Simplify had "adopted policies and procedures to ensure that this lapse in timing [to notify the Board and make regulatory filings] is not repeated should the fund's [sic] have similar exceedances going forward."

Simplify Caused the Simplify ETFs to Violate Investment Company Act Section 19(a) and Rule 19a-1

43. Investment Company Act Section 19(a) prohibits RICs such as ETFs from paying distributions from any source other than net income unless the payments are accompanied by contemporaneous written statements to shareholders disclosing the sources of the distributions. Rule 19a-1 specifies that the written statement must be in a separate document and must clearly indicate what portion of the payment is from: (a) net income (not including capital gains); (b) capital gains; and (c) paid-in surplus or other capital sources. The purpose of Section 19(a) and Rule 19a-1 is to afford shareholders adequate disclosure of the sources from which the payments are made so shareholders will not believe that a fund portfolio is generating investment income when, in fact, distributions are paid from other sources, such as shareholder capital or capital gains. *See Investment Trusts and Investment Companies: Hearings on S. 3580 Before a Subcomm. of the Senate Comm. on Banking and Currency*, 76th Cong., 3rd Sess., 275, 278 (1940); *see also Gabelli Funds, LLC*, Investment Company Act Rel. No. 28580 at 3 and n.4 (Jan. 12, 2009).

44. Simplify, with the Board's approval, launched the Simplify ETFs between March 2020 and January 2024. At different points in time, the Simplify ETFs made periodic (generally, monthly or quarterly) distributions to shareholders that were not sourced exclusively from fund income. Instead, varying portions of these periodic distributions were a return of capital.

45. Prior to September 28, 2023, the Simplify ETFs did not provide shareholders of any of the Simplify ETFs with the contemporaneous notices required by Section 19(a) and Rule 19a-1. As an investment adviser to the Simplify ETFs, Simplify was responsible for overseeing that such notices were generated and delivered to shareholders of the Simplify ETFs. Beginning on September 28, 2023, some of the Simplify ETFs began to issue contemporaneous notices to shareholders, gradually expanding the coverage to all of the Simplify ETFs. By September 30, 2024, all of the Simplify ETFs were providing notices to shareholders when required to do so.

46. The failure to provide notices required by Section 19(a) and Rule 19a-1 spanned multiple years and multiple funds. For example, the Simplify U.S. Equity PLUS GBTC ETF began making quarterly distributions to shareholders on July 1, 2020. The majority of the fund's distributions in its fiscal year beginning July 2022 and continuing through its fiscal year ending June 2024 consisted of returns of capital. The fund failed to give shareholders contemporaneous notice that the majority of the distributions—84%—reflected a return of capital.

47. The table below shows aggregated distributions for the identified time periods derived from fund income and return of capital and for which the Simplify ETFs failed to provide Section 19(a) notices to shareholders:

Fund Name	**Time Period(s)**	**Dividend: Fund Income**	**Dividend: Return of Capital**	**Percentage Return of Capital**
SURI	July 2022 – June 2023	$0.87	$0.81	48.21%
Simplify Volatility Premium ETF	July 2021 – June 2022	$0.04	$3.28	98.80%
Simplify High Yield PLUS Credit Hedge ETF	July 2021 – June 2022 July 2022 – June 2023	$0.24 $1.39	$0.11 $0.47	31.43% 25.27%
Simplify U.S. Equity PLUS GBTC ETF	July 2022 – June 2023 July 2023 – June 2024	$0.11 $0.09	$0.87 $0.21	88.78% 70.00%
Simplify Aggregate Bond PLUS Credit Hedge ETF	July 2022 – June 2023	$0.83	$0.41	33.06%
Simplify U.S. Equity Downside Convexity ETF	July 2023 – June 2024	$0.33	$0.13	28.26%
Simplify MBS ETF	July 2023 – June 2024	$1.44	$0.31	17.71%

48. The Simplify ETFs violated Section 19(a) and Rule 19a-1 thereunder by paying distributions to shareholders from sources other than net income without disclosing the source of those distributions in a notice that accompanied the distributions.

49. Although Simplify filed with the Commission and provided to shareholders audited financial statements for the Simplify ETFs on Forms N-CSR for fiscal years 2021, 2022, 2023, and 2024, which showed that the Simplify ETFs made distributions derived from returns of capital, Simplify failed to provide contemporaneous notices containing this information as required by Section 19(a) and Rule 19a-1 as set forth above.

Policies and Procedures

50. Simplify personnel played a significant role in adopting and implementing SURI's, FIG's, and the other Simplify ETFs' policies and procedures.

51. Prior to August 2024, SURI and the other Simplify ETFs did not adopt or implement any policies and procedures concerning the provision of Investment Company Act Section 19(a) and Rule 19a-1 notices to fund shareholders.

52. Prior to June 2026, SURI, FIG, and the other Simplify ETFs also did not adopt or implement policies and procedures that included a process for any revisions to, or deviations from, its custom basket policies and procedures. Under Investment Company Act Rule 6c-11, RICs must, among other things, establish policies and procedures tailored to the types of transactions they undertake with an authorized participant. One condition of Rule 6c-11 is that ETFs "must adopt and implement written policies and procedures that govern the construction of baskets and the process that will be used for acceptance of baskets." Rule 6c-11(c)(3). The Rule has additional provisions for "custom baskets," which are baskets of assets that are a non-representative selection of the ETF's portfolio holdings. In those cases, the ETF must "[s]et forth detailed parameters for the construction and acceptance of custom baskets that are in the best interests of the exchange-traded fund and its shareholders, including the process for any revisions to, or deviations from, those parameters." Rule 6c-11(c)(3)(i).

53. Although SURI adopted and implemented policies and procedures concerning compliance with Rule 6c-11, these policies and procedures did not address the use of custom baskets that contained securities that were not held in the ETF's portfolio, like the custom basket used for the June 2023 transaction with Trust A, until June 2026. In addition, the written policies and procedures did not identify any process for deviating from the parameters outlined in such procedures. Instead, SURI incorrectly documented the custom basket used in that transaction as a "rebalance" basket. In addition to SURI, FIG and the other Simplify ETFs engaged in similar transactions with an authorized participant using custom baskets that deviated from those permitted by their respective policies and procedures while lacking any process for such deviations.

Violations

54. As a result of the conduct described above, Simplify caused Trust A's violations of Investment Company Act Section 17(a)(1).

55. As a result of the conduct described above, Simplify caused FIG's violations of Investment Company Act Section 18(f)(1).

56. As a result of the conduct described above, Simplify caused FIG's violations of Investment Company Act Rule 30b1-10.

57. As a result of the conduct described above, Simplify caused the Simplify ETFs' violations of Investment Company Act Section 19(a) and Rule 19a-1 thereunder.

58. As a result of the conduct described above, Simplify caused SURI, FIG, and the other Simplify ETFs to violate Investment Company Act Rule 38a-1. Rule 38a-1 requires RICs to adopt and implement written policies and procedures reasonably designed to prevent violations of the federal securities laws.

Simplify's Remedial Efforts and Cooperation

59. In determining to accept the Offer, the Commission considered remedial acts undertaken by Simplify and cooperation afforded the Commission staff.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Simplify's Offer.

Accordingly, pursuant to Investment Company Act Section 9(f), it is hereby ORDERED that:

A. Respondent Simplify cease and desist from committing or causing any violations and any future violations of Investment Company Act Sections 17(a)(1), 18(f)(1), and 19(a) and Rules 19a-1, 30b1-10, and 38a-1 promulgated thereunder.

B. Respondent Simplify shall, within twenty-one (21) days of the entry of this Order, pay a civil money penalty in the amount of $400,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Section 21F(g)(3) of the Securities Exchange Act of 1934. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.

Payment must be made in one of the following ways:

(1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

(2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at http://www.sec.gov/about/offices/ofm.htm; or

(3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Simplify as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Lee A. Greenwood, Assistant Director, Asset Management Unit, Division of Enforcement, Securities and Exchange Commission, 100 Pearl St., Suite 20-100, New York, NY 10004.

C. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Vanessa A. Countryman
Secretary