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Flush With $51 Billion, Donor-Advised Funds Face Payout Questions

By Alex Daniels and Drew Lindsay

Donor-advised funds are sitting on considerable cash, thanks to a flood of giving and the stock market's post-recession rebound. Collectively, 85 of the largest donor-advised-fund sponsors managed $51 billion in assets in 2013 — up 159 percent since 2008, according to a *Chronicle* analysis.

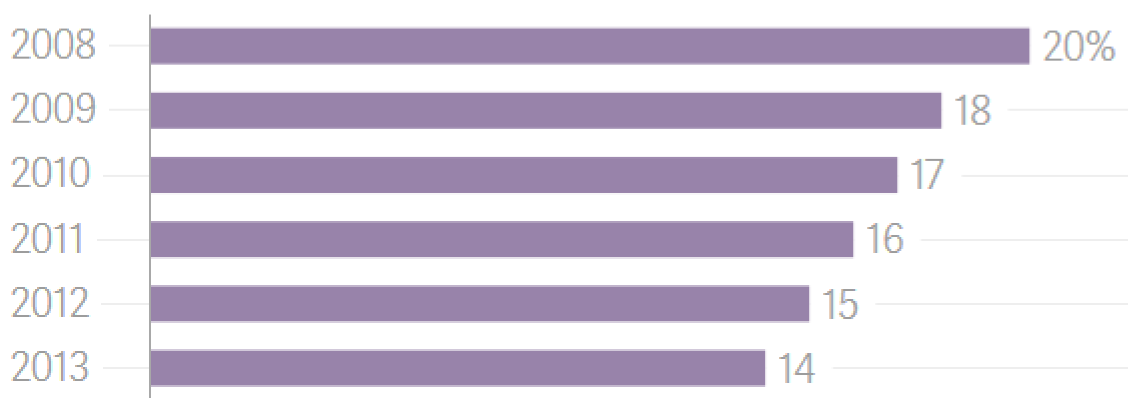
As these accounts have swelled, the dollars spun off as grants have increased every year. Still, the rate of grant making has slowed. The large donor-advised funds in the *Chronicle* analysis paid out 14 percent of assets in 2013, down from 20 percent in 2008.

This decline worries critics of donor-advised funds, who contend the accounts are attracting contributions that would otherwise go to charities and be put to use immediately. Charitable giving is being warehoused, they argue, doing nothing but generating management and investment fees.

Donor-advised-fund sponsors, however, argue that a booming stock market has sent asset values skyrocketing. Grant making will catch up, they say, and payout rates will increase.

To nudge donors to give, some sponsors are increasing penalties on dormant accounts. Instead of docking donors $500 when accounts are inactive for seven years, the Vanguard Charitable Endowment Program (No. 11) now places a 5 percent charge on accounts idle for five years. "We don't want the money to get trapped; that's very anti-mission," Vanguard President Jane Greenfield says.

Regardless, sponsors argue, distributions from accounts are already quite robust, particularly when compared with many private foundations that stick closely to the 5 percent they are required by law to pay out annually. Eight organizations in the *Chronicle* analysis had payout rates of 25 percent or more.



Congressional Intervention

Congress could intervene and force funds to pay out at a higher rate. The last attempt to overhaul the tax code included a proposed tax on donor-advised-fund assets that aren't given to charities within five years. The legislation, championed in 2014 by then-House Ways and Means Committee Chairman Dave Camp, failed to reach the House floor for a vote.

To ward off similar provisions, lobbyists representing commercial funds and community foundations fanned out across Capitol Hill. Their message: Donor-advised funds support charities close to home. Often, fund lobbyists would show a legislator a map of his or her Congressional district filled with colored dots, each representing a charity that received contributions from account holders, says Jorge Castro, who has represented the National Philanthropic Trust (No. 17), a national donor-advised fund sponsor.

"It's not peanuts," he says of the cash flowing from accounts to nonprofits.

There hasn't been another attempt to limit the funds since Mr. Camp left office at the beginning of 2015. In fact, the only legislative effort currently in play is designed to encourage the rush of assets into donor-advised funds. Bills pending in the Senate and the House would allow tax-free transfers from individual retirement accounts to donor-advised funds.

Still, controversies about the Trump and Clinton foundations could prompt Congress to reconsider the tax treatment of nonprofits. And lawmakers have signaled their interest in regulating large college and university endowments, which may lead to increased scrutiny of any accumulation of wealth earmarked for charity.

If Congress takes a deep dive into the tax code, nothing is sacrosanct, some lobbyists warn. "I don't think the attention is 100 percent off of donor-advised funds," says Sue Santa, senior vice president for public policy at the Council on Foundations. "We need to be very mindful."