Donor Advised Funds New Giving Vehicles Alliance Webinar

Ray Madoff
Boston College Law School
June 13, 2023

What is a Donor Advised Fund

Why are they so popular?

What issues do they raise?

• How to reform rules around DAFs to Promote Public Good

What is a DAF? It has 2 Faces

 Legally it is an outright contribution to a "public charity" (called a sponsoring organization)—like an outright gift to to a food bank.

 BUT, in reality subject to an "understanding" (not legally binding) that the donation will be segregated into an account awaiting donors' "advice" Who Are
These Public
Charities
Acting as
DAF
Sponsors?











Why DAFs are so popular for DONORS

- maximum tax benefits while still maintaining control over distribution and management of funds
- Like a foundation, without the expense and disclosure and payout rules and often better tax benefits
- Facilitates donations of property other than cash—like stock, real estate and business interests

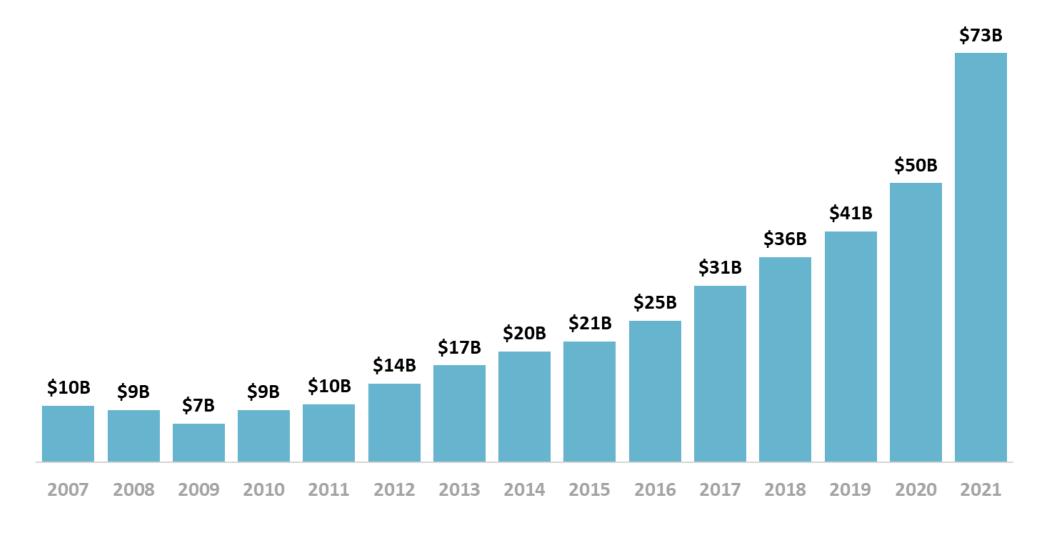
Advisory privileges can be passed on to children and grandchildren

Why DAFs are so popular for SPONSORs and Financial Advisors

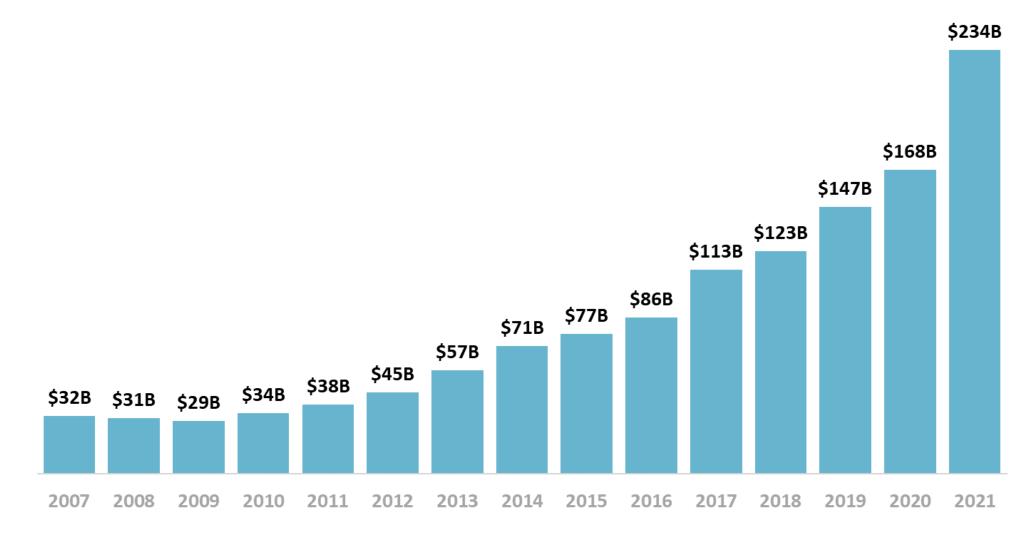
Management fees

These combined benefits for donors and sponsoring organizations have fueled the extraordinary growth of DAFs

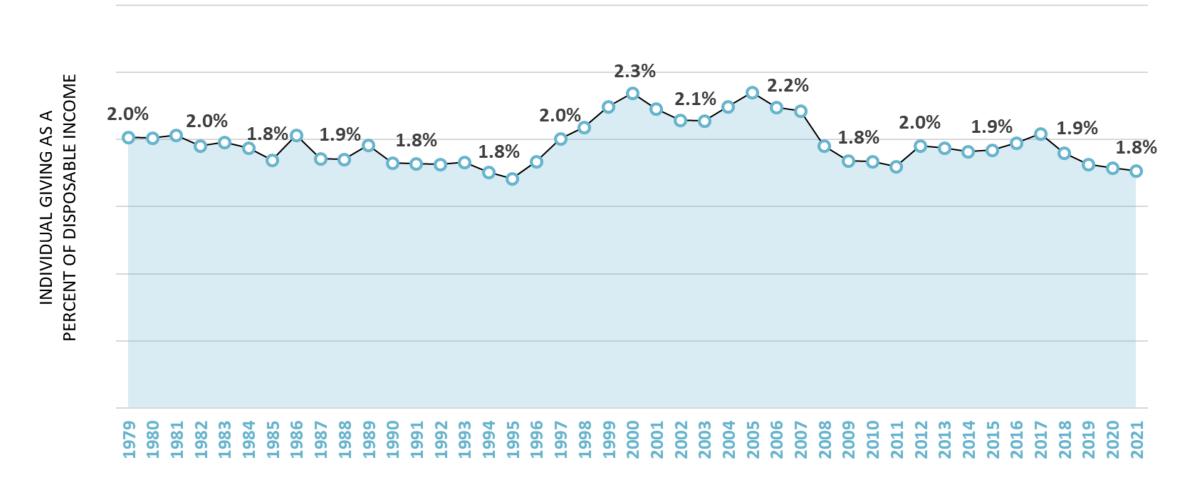
DAF Contributions 2007-2021



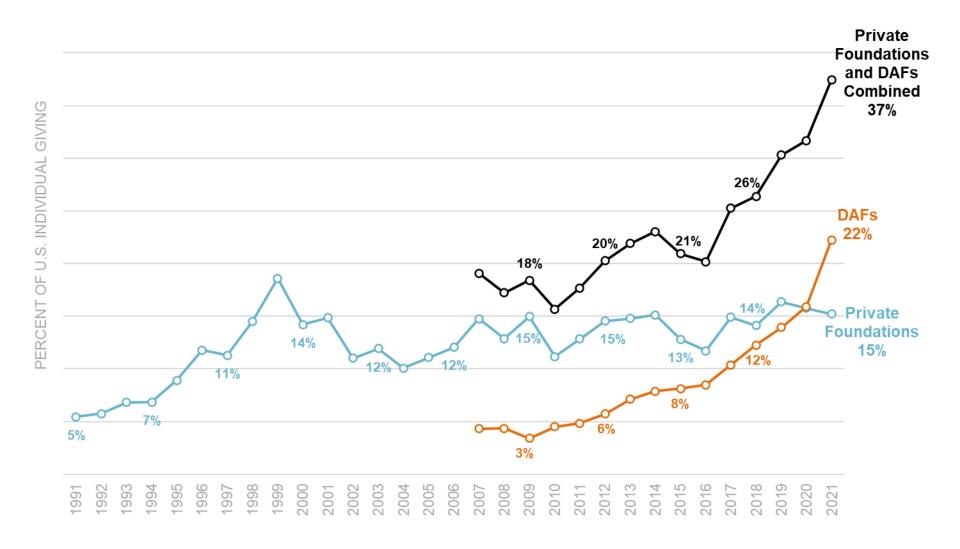
DAF Assets- 2007-2021



No Evidence of DAFs Increasing Charitable Giving



Percent of Individual Giving Going to Private Foundations and Donor-Advised Funds



\$1.4 Trillion

The amount currently set aside in US private foundations and donor-advised funds

Concerns Raised by DAFs

• No requirement for these funds to ever be put to charitable use

 Private foundations can hide their charitable activities (and in the US meet/avoid payout rules) by giving to DAFs

 As a result –no assurance that DAFs and Private Foundation funds will EVER be given to chairty

What about those high payout rates

Averages hide a lot of ills.

Fast payout by some accounts should not allow no payout by others.

Reforms to Align DAFs with Public Good

- Adopt per account payout rules for DAFs
 - Either 5% or set a term limit

 Where private foundations have payout obligations, ensure that they cannot be met through use of DAFs Questions?

Comments?

Thank you!