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All that's hot in the mutual fund industry

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Funds Match Reform Frenzy With Lobbying Dollars

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The fund industry — and its army of lawyers — is trying to keep up with the many significant legislative and regulatory proposals on the table in Washington, D.C.

The list of potential changes is extensive: Proposed legislation could dramatically change the 401(k) system; the Securities and Exchange Commission (SEC) has proposed tightening liquidity and credit requirements for money market funds; and reform of distribution fees, also known as 12b-1 fees, is back on the drawing board, after being removed from the regulatory agenda during the financial meltdown.

And those are just the mutual fund-specific issues. Then there is the overhaul to the financial regulatory structure that President Barack Obama proposed earlier this year, which could bring big changes to some mutual fund firms.

"The difference between the reform efforts that are coming and everything that we've experienced to date is that for the first time all of the financial services laws are being revisited simultaneously," says Daniel Crowley, partner at **K&L Gates**.

Some of the largest mutual fund firms, including **Fidelity** and **Vanguard**, are not only taking stock of possible legislative and regulatory changes but are lobbying to influence their outcome.

As a way to stay on top of the avalanche of proposed reform measures, K&L Gates launched in June its international Capital Markets Reform Group, which coordinates across multiple practice areas, including investment management, public policy, depositary institutions and derivatives/securitization.

"The idea is that financial services providers have always been able to just focus on their own part of the regulatory world," says Crowley, who until last year was chief government affairs officer at the Investment Company Institute (ICI). "That's going to be inadequate in this environment because the proposals are so broad that they impact everyone."

Crowley notes the part of Obama's reform plan that would treat "systemically significant" firms as Tier 1 financial holding companies subject to regulation by the Federal Reserve. This could impact mutual fund firms that are subsidiaries of large integrated firms, he says.

Fund firms have jumped into the fray and are making themselves heard on the Hill. Securities and investment firms, which include mutual fund firms as well as hedge fund managers and others, have spent a total of more than $42 million on lobbying in the first half of 2009, according to OpenSecrets.org, the website of The Center for Responsive Politics. In comparison, the pharmaceuticals/health products industry vastly outspent other industries with $134 million in lobbying expenditures in 2009.

In the first two quarters, Fidelity spent $1.5 million on lobbying. About $1 million of that financed the activities of the firm's internal staff, rather than going to external lobbying firms. In fact, the firm's lobbying expenditures for 2009 are on pace to exceed those of 2008, during which it spent about $2.16 million. The firm hit a peak of $2.3 million in lobbying expenses in 2007, OpenSecrets data show.

Edward "Ned" Johnson said earlier this year that Fidelity expanded and strengthened its government affairs operation in 2008 and brought in a new head of the department. That was done in expectation of more industry reform under the Obama administration, Johnson said. This could mean that 2009 becomes its new high-water mark in lobbying expenditures.

Documents show that Fidelity has lobbied on a wide array of issues this year, including 401(k) reform, money market fund regulation and guarantee and liquidity programs, credit rating agencies, arbitration of brokerage disputes and the Compensation Fairness Act of 2009, which would require financial institutions to disclose incentive-based compensation arrangements (and would give shareholders a non-binding "say on pay" of company executives).

Fidelity also lobbied on several tax-related bills. Indeed, the fund industry is painfully aware of the expiration of the 15% tax rate on capital gains in 2011.

"Our efforts are commensurate with the number and type of issues being debated in Washington," says Vin Loporchio, spokesman for Fidelity. Loporchio declined to comment on future lobbying expenditures.

Fidelity appears to be the biggest spender on lobbying in the mutual fund industry after the Investment Company Institute, which spent about $2.5 million in the first two quarters. Last year the trade group spent about $5.15 million, according to data from the Center for Responsive Politics.

"ICI's efforts are designed to provide information and perspective to Congress on issues of importance to funds, to our investors and to the financial markets in which we invest," writes an ICI spokeswoman in an e-mail.

Charles Schwab & Co. also devoted substantial resources to lobbying this year — about $1.24 million. Like other fund firms, it lobbied on 401(k) and tax issues, among others of concern to different segments of its business, namely the brokerage. Last year it outspent Fidelity with $2.43 million.

Vanguard has spent $600,000 this year, with $320,000 of that paying for activities by internal people. In 2008 the firm spent about $1.13 million.

Meanwhile, several other large fund firms, including **Capital Research and Management** and **T. Rowe Price**, have not spent any money on lobbying in 2009.

Cap Research would engage in lobbying "if we felt there was a need," says a spokesman for the firm. "So far we have found the ICI to be a very effective advocate for shareholders."

Paul Haaga, the firm's vice chairman, is on the ICI's board of governors and previously served as the trade group's chairman. Cap Research's spokesman says the firm has a lot of people who work very closely with the ICI, not just Haaga.

T. Rowe Price's spokeswoman says, "Historically, we have not felt the need to hire a lobbying firm; rather, we work through various industry organizations where we have been active and vocal members, including the Investment Company Institute, the Investment Adviser Association and the Spark Institute."

T. Rowe files comment letters and engages in direct dialogue with legislators and regulators when it's deemed necessary and appropriate, the spokeswoman adds in an e-mail statement.

Putnam as well has not spent anything on lobbying in 2009, although CEO Robert Reynolds made a very public push for 401(k) reform earlier this year.

Has the fund industry succeeded in furthering its interests on the Hill?

In one major area, at least, they seem to be winning the fight.

The fact that no legislation has been introduced to regulate money market funds as depositary accounts is a major victory, especially considering that the Group of 30 had called for this, says Niels Holch, head of the Coalition of Mutual Fund Investors and himself a lobbyist in other areas.

"The mutual funds are certainly more popular than the banks and the brokers," says Holch, laughing.

Who's Lobbying D.C.?

Fund Firm	**2009 (Q1 & Q2)**	**2008**
Fidelity	$1.5 million	$2.16 million
Charles Schwab & Co.	$1.24 million	$2.43 million
Vanguard	$600,000	$1.13 million
Federated Investors	$158,500	$1.02 million
UBS Americas	$150,000	$550,000
BlackRock	$110,000	No lobbying expenditures
Janus	$90,000	$160,000
Pimco	$60,000	$160,000
Northwestern Mutual (Russell Investment Group)	$60,000	$120,000

AllianceBernstein	$40,000	$150,000
Eaton Vance	$40,000	$160,000

Source: www.opensecrets.org, the Center for Responsive Politics