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## People Feature

# Speculation Swirls on Roye's Replacement

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With top fund cop Paul Roye eyeing greener pastures, the industry's rumor mill has already compiled a short list of likely successors to fill what's become one of Washington's toughest jobs. The successful candidate will need to help steer the industry through changing regulatory terrain.

While only SEC Chairman William Donaldson knows for sure who the agency's next investment management chief will be, there are a few logical contenders, industry lawyers and former SEC officials say.

Historically, the position has often been filled by lawyers from private practice. Roye, along with predecessors like Barry Barbash and Kathryn McGrath, came from that route. All three had also served prior SEC stints. Odds are Roye's successor will have a similar resume, some believe.

Someone with hands-on industry experience would be ideal for the job, says one former SEC investment management division official who did not wish to be named.

"When you're dealing with a market that really feels like the SEC is overreaching and over-regulating right now, pulling someone in with some real-world, industry experience may make sense," he explains.

Some of the lawyers most frequently mentioned as front-runners for the job include **Dechert** partner Jack Murphy and **Kramer Levin Naftalis & Frankel** partner Jay Baris.

"It's certainly an honor to appear on that list," says Baris, who declined to confirm or deny whether he's being considered for the role. "Anybody who takes a position like that will have to deal with personal and professional issues."

In Baris's case, one potential hurdle is moving from his New York-based practice to Washington, D.C., in addition to the pay cut that public service entails.

Some are slating Murphy as the front-runner. Stephanie Monaco, a partner at law firm **Crowell & Moring** and a former SEC branch chief, says she has heard from more than one source that Murphy's being eyed for the job.

If sharing a similar career path with Roye is a requirement for consideration, Murphy certainly fits the bill. His industry experience comes from a three-year stint at **PaineWebber** in the early 1990s. He was also associate director and chief counsel of the SEC's investment management division from 1994 to 1997 before joining

Dechert.

Then again, some say Murphy shares too much in common with Roye. Murphy hails from the same firm, Dechert, as both Roye and former deputy director Cynthia Fornelli, who left the SEC last year for a position at **Bank of America**. To avoid the appearance of favoritism, Donaldson is unlikely to tap the same well again, says one industry observer.

Murphy was unavailable for comment, according to an assistant.

Also said to be on the short list are **Kirkpatrick & Lockhart** lawyer Robert Zutz, **Debevoise & Plimpton's** Ken Berman and **Wilmer Cutler Pickering Hale and Dorr** lawyers Jim Anderson and Martin Lybecker. Zutz, Anderson and Berman declined to comment, while Lybecker could not be reached.

A few other lawyers whose names are making the rounds are apparently out of the running. **T. Rowe Price** chief counsel Henry Hopkins, another lawyer whose name keeps popping up as a possible candidate, has apparently withdrawn from consideration, according to Monaco. Hopkins did not return a phone call prior to deadline. Wilmer Cutler Pickering Hale and Dorr attorney Matt Chambers and **Morgan Lewis & Bockius** attorney Tom Harman say they're off the list, too.

Whoever takes the job will have to wrestle with the application of new rules aimed at preventing market timing and late trading. The SEC's hard 4 p.m. close proposal is "on track," Roye said last week. The agency is putting the finishing touches on its redemption fee policy, which appears likely to be voluntary.

"The top priority for the division director is going to be finishing up the remaining rulemakings in the wake of the scandal," explains Niels Holch, a partner with law firm **McGuinness & Holch** and executive director of the **Coalition of Mutual Fund Investors**.

The agency poses its own unique challenges, points out **Shearman & Sterling** partner Joel Goldberg, a former director of the SEC's investment management division himself. He cites leadership as one of the fundamental attributes for the job, along with creativity and knowledge of both the industry and the regulatory system.

"It's not like a private corporation where you can motivate people by giving or withholding bonuses or salary increases," Goldberg notes. "It takes a special type of leadership talent to motivate the staff and to keep them motivated."

Though most of the talk so far is focusing on lawyers in private practice, it's not unheard of for SEC's investment management director to come from within the Commission. For instance, former law school professor Marianne Smythe progressed from then-Chairman Richard Breeden's office to the top fund cop spot in 1988.

"My own view is that you don't choose somebody who's cozy with the industry," observes former division director and current **Mutual Fund Directors Forum** president Allan Mostoff. "You choose someone who's going to have the respect of the industry and who will do the job that needs to be done."

The SEC has a deep bench of possible candidates, Mostoff says, both in the investment management group and throughout the agency. One regulator being mentioned, division associate director and chief counsel Doug Scheidt, declined to comment.

SEC spokesman John Heine says he's "not aware of any timetable" for naming Roye's successor. Last week Roye told Ignites he plans to leave the agency by mid-March, so a decision seems likely soon.

Many lawyers allude to the comparatively low compensation of working in the public sector versus private practice as a reason for not taking the position. But heading up an SEC division for a few years could lead to better pay down the road, according to **Boston University School of Law** professor Tamar Frankel.

"Or there may be people, astounding as it may seem, who don't value the dollar as much," Frankel says.  
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