

DELCATH SYSTEMS, INC.

Form PRER14A

May 03, 2017

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UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

SCHEDULE 14A

(Rule 14a-101)

INFORMATION REQUIRED IN PROXY STATEMENT

SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(a) of the

Securities Exchange Act of 1934

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

Preliminary Proxy Statement

Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))

Definitive Proxy Statement

Definitive Additional Materials

Soliciting Material Pursuant to § 240.14a-12

Delcath Systems, Inc.

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if Other Than The Registrant)

Payment of Filing Fee (Check the appropriate box):

No fee required.

Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

- (1) Title of each class of securities to which transaction applies:

- (2) Aggregate number of securities to which transaction applies:

- (3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (Set forth the amount on which the filing fee is calculated and state how it was determined):

- (4) Proposed maximum aggregate value of transaction:

- (5) Total fee paid:

Fee paid previously with preliminary materials.

Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

- (1) Amount Previously Paid:

- (2) Form, Schedule or Registration Statement No.:

- (3) Filing Party:

(4) Date Filed:

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NOTICE OF ANNUAL MEETING OF STOCKHOLDERS

TO BE HELD ON [], 2017

Notice is hereby given that the 2017 Annual Meeting of Stockholders of Delcath Systems, Inc. will be held on [], 2017, at 9:30 a.m., local time, at the offices of Morgan, Lewis & Bockius LLP, located at 101 Park Avenue, New York, New York 10178, for the following purposes:

- (1) To vote on the election of Harold S. Koplewicz, M.D as a Class II director, to serve until the 2020 annual meeting of stockholders and until his successor is duly elected and qualified;
- (2) To cast a non-binding, advisory vote on the compensation of our named executive officers (say-on-pay);
- (3) To cast a non-binding, advisory vote on the frequency of say-on-pay ;
- (4) To ratify the appointment by our Audit Committee of Grant Thornton, LLP as Delcath s independent registered public accounting firm for the fiscal year ending December 31, 2017;
- (5) To approve an amendment to our amended and restated certificate of incorporation to effect a reverse stock split of our common stock, such split to combine a whole number of outstanding shares of our common stock in a range of not less than fifty shares and not more than five hundred shares, into one share of common stock in the discretion of the Board of Directors, and to grant authorization to the Board of Directors to determine, in its sole discretion, whether to implement the reverse stock split, as well as its specific timing; and
- (6) To transact such other business as may properly come before the meeting or any adjournment or postponement of the meeting. Each proposal will be effective upon its approval by our stockholders at the Annual Meeting and is not conditioned upon the approval by our stockholders of any other proposal. As each proposal will be presented to our stockholders at the Annual Meeting in the order presented herein, each such proposal that is approved will become effective in such order.

We are not aware of any other business to come before the meeting.

These items of business are more fully described in the Proxy Statement which accompanies this Notice of Annual Meeting.

The Board of Directors has fixed the close of business on April 17, 2017 as the record date for the Annual Meeting. Only stockholders of record of Delcath common stock at the close of business on that date are entitled to notice of and to vote at the Annual Meeting and at any adjournment or postponement of the meeting.

Your vote is important. Whether or not you plan to attend the Annual Meeting, please complete, sign, date and return the accompanying proxy card in the enclosed postage-paid envelope. Returning the proxy card does NOT deprive you of your right to attend the meeting and to vote your shares in person. The Proxy Statement explains proxy voting and the matters to be voted on in more detail. Please read the Proxy Statement carefully.

By Order of the Board of Directors

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New York, New York
[], 2017

/s/ Jennifer K. Simpson
Jennifer K. Simpson, Ph.D.
President and Chief Executive Officer

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DELCATH SYSTEMS, INC.

PROXY STATEMENT

FOR

2017 ANNUAL MEETING OF STOCKHOLDERS

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1633 Broadway, Suite 22C

New York, New York 10019

PROXY STATEMENT

For the 2017 Annual Meeting of Stockholders to be held on [], 2017

The enclosed proxy is solicited by the Board of Directors of Delcath Systems, Inc. (Delcath, we, our, us or the Company) to be voted at our Annual Meeting of Stockholders (the Annual Meeting) to be held on [], 2017, at 9:30 a.m., local time, and at any adjournment or postponement of the meeting. The Annual Meeting will be held at the offices of Morgan, Lewis & Bockius LLP, located at 101 Park Avenue, New York, New York 10178. This Proxy Statement and the accompanying Notice of Annual Meeting of Stockholders, proxy card and Delcath's Annual Report on Form 10-K for the fiscal year ended December 31, 2016 (the Form 10-K), is being first mailed on or about [], 2017, to our stockholders entitled to vote at the meeting.

Important Notice Regarding the Availability of Proxy Materials for

the Stockholder Meeting to Be Held on [], 2017

A copy of this Proxy Statement, the proxy card and our Annual Report on Form 10-K are available at:

[<https://materials.proxyvote.com/24661P>]

INFORMATION ABOUT THE ANNUAL MEETING AND VOTING

Purpose of the Annual Meeting.

At the Annual Meeting, stockholders will consider and vote on the following proposals:

the election of Harold S. Koplewicz, M.D as a Class II director, to serve until the 2020 annual meeting of stockholders and until his successor is duly elected and qualified (Proposal 1);

a non-binding, advisory vote on the compensation of our named executive officers (say-on-pay) (Proposal 2);

a non-binding, advisory vote on the frequency of say-on-pay (Proposal 3);

the ratification of the appointment by our Audit Committee of Grant Thornton, LLP as Delcath's independent registered public accounting firm for the fiscal year ending December 31, 2017 (Proposal 4);

an amendment to our amended and restated certificate of incorporation to effect a reverse stock split of our common stock, such split to combine a whole number of outstanding shares of our common stock in a range of not less than fifty shares and not more than five hundred shares, into one share of common stock in the discretion of the Board of Directors, and to grant authorization to the Board of Directors to determine, in its sole discretion, whether to implement the reverse stock split, as well as its specific timing (Proposal 5); and

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such other business as may properly come before the meeting or any adjournment or postponement of the meeting.

Each proposal will be effective upon its approval by our stockholders at the Annual Meeting and is not conditioned upon the approval by our stockholders of any other proposal. As each proposal will be presented to our stockholders at the Annual Meeting in the order presented herein, each such proposal that is approved will become effective in such order.

Stockholders Entitled to Vote.

Stockholders of record at the close of business on April 17, 2017 (the Record Date) of our common stock, \$0.01 par value per share, are entitled to notice of, and to vote at, the Annual Meeting and at any adjournment or postponement of the meeting. At the close of business on the Record Date, there were [] shares of Delcath common stock issued, outstanding and entitled to vote.

Number of Votes.

You have one vote for each share of Delcath common stock held by you on the Record Date.

Voting.

You may vote your shares in person or by proxy. Whether or not you plan to attend the Annual Meeting, we urge you to vote by proxy to ensure your vote is counted. You may still attend the Annual Meeting and vote in person if you have already voted by proxy.

Stockholders of Record. If you hold your shares in your own name as a holder of record, you can vote your common stock by:

completing the enclosed proxy card and returning it signed and dated in the enclosed postage-paid envelope. The persons named in the proxy card (the proxies or proxy holders) will vote your shares in accordance with your instructions in your completed and returned proxy card; or

attending the Annual Meeting and delivering your completed proxy card in person or by completing a ballot at the meeting. Ballots will be available at the meeting. Please bring proof of identification with you to the Annual Meeting.

Beneficial Owners. If your shares are held in the name of a bank, broker or other holder of record, you will receive instructions from the holder of record on how to vote your shares. You must follow the instructions of your broker or other nominee in order for your shares to be voted. If your shares are not registered in your name and you plan to vote your shares in person at the meeting, you must obtain and bring with you to the meeting a legal proxy from the broker or other nominee holding your shares that confirms your beneficial ownership of the shares and gives you the right to vote your shares at the meeting.

Quorum.

A majority of our outstanding shares of common stock present in person or by proxy and entitled to be voted at the Annual Meeting constitutes a quorum. For purposes of determining the presence of a quorum for transacting business at the Annual Meeting, abstentions and broker non-votes (proxies from brokers or other nominees indicating that they have not received instructions from the beneficial owner(s) on a particular proposal(s) with respect to which the brokers or nominees do not have discretionary voting authority) will be treated as shares that are present for purposes of determining the presence of a quorum.

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Non-Routine Proposals; Broker Non-Votes.

Your broker or nominee will have discretionary authority to vote your shares with respect to routine proposals, but not with respect to non-routine proposals. It is therefore critical that you personally vote on the non-routine proposals as soon as possible.

Non-routine proposal. Proposal 1 (election of directors), Proposal 2 (say-on-pay) and Proposal 3 (frequency of say-on-pay) are non-routine proposals.

Routine proposal. Proposal 4 (ratification of the appointment of our independent registered public accounting firm) and Proposal 5 (reverse stock split) are routine proposals.

Vote Required; Treatment of

Abstentions and Broker Non-Votes.

Proposal 1, the election of a Class II director the nominee receiving the highest number of affirmative votes of the shares present or represented by proxy and entitled to vote on such matter at the Annual Meeting shall be elected as a director.

Proposal 2, a non-binding, advisory resolution on the compensation of our named executive officers (say-on-pay) an affirmative vote of a majority of the shares present in person or represented by proxy and entitled to vote on such matter is required for approval of the advisory resolution.

Proposal 3, a non-binding, advisory vote on the frequency of say-on-pay the frequency receiving the greatest number of votes every year, every two years or every three years will be the advisory frequency approved by our stockholders.

Proposal 4, the ratification of the appointment of Grant Thornton, LLP as our independent registered public accounting firm for the fiscal year ending December 31, 2017 an affirmative vote of a majority of the shares present in person or represented by proxy and entitled to vote on such matter is required for approval.

Proposal 5, the reverse stock split an affirmative vote of a majority of shares issued and outstanding is required for approval.

Abstentions are included in the number of shares present or represented and entitled to vote on each matter. Broker non-votes are not considered entitled to vote for the particular matter and have the effect of reducing the number of affirmative votes required to achieve a majority for such matter by reducing the total number of shares from which the majority is calculated.

Voting of Proxies.

Our Board of Directors recommends a vote **FOR** the director nominee listed in Proposal 1, **FOR** Proposal 2, **ONE YEAR** for Proposal 3, **FOR** Proposal 4 and **FOR** Proposal 5. Your shares of common stock will be voted in accordance with the instructions contained in your signed proxy card. **If you return a signed proxy card without giving specific voting instructions with respect to a particular Proposal or Proposals to be acted upon at the meeting, proxies will be voted in favor of the Board of Directors recommendations with respect to that particular Proposal or those Proposals as set forth in this Proxy Statement.**

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Other Matters.

We are not aware of any matters to be presented at the Annual Meeting other than those described in this Proxy Statement. If any matters not described in this Proxy Statement are properly presented at the meeting, the proxy holders will use their own judgment to determine how to vote your shares. If the meeting is adjourned or postponed, the proxy holders can vote your shares on the new meeting date as well, unless you have subsequently revoked your proxy.

Revoking your Proxy.

Stockholders of Record. You can revoke your proxy at any time before it is voted at the Annual Meeting by doing any one of the following things:

giving our Corporate Secretary a written notice of revocation (addressed to Barbra C. Keck, Corporate Secretary, Delcath Systems, Inc., 1633 Broadway, Suite 22C, New York, New York 10019) before or at the meeting; or

delivering a properly executed, later dated proxy card; or

attending the Annual Meeting and voting in person at the meeting. **Your attendance at the meeting in and of itself will not be sufficient to revoke your proxy.**

Beneficial Owners. If you instructed your broker or nominee to vote your shares, you can change your vote only by following your broker or nominee's instructions for doing so.

Householding.

We are required to provide an Annual Report to all stockholders who receive this proxy statement. To reduce future costs to Delcath, if you are a stockholder of record and have more than one account in your name, or reside at the same address as other stockholders of record, you may authorize us to discontinue duplicate mailings of future Annual Reports, commonly referred to as householding. To do so, mark the designated box on each proxy card for which you wish to discontinue receiving an Annual Report. If you are voting via the Internet or by telephone, you can either follow the prompts when you vote or give instructions to discontinue duplicate mailings of future Annual Reports. Street name stockholders who wish to discontinue receiving duplicate mailings of future Annual Reports should review the information provided in the proxy materials mailed to them by their broker or nominee. If, now or in the future, you wish to receive a separate copy of the Annual Report, please notify us by sending a written request to our Corporate Secretary addressed to Barbra C. Keck, Corporate Secretary, Delcath Systems, Inc., 1633 Broadway, Suite 22C, New York, New York 10019, and we will deliver a separate copy.

Expenses and Solicitation.

The costs of solicitation of proxies, including printing and mailing costs, will be borne by Delcath. In addition to the solicitation of proxies by mail, proxies may also be solicited personally by directors, officers and employees of Delcath, without additional compensation to these individuals. Delcath may request banks, brokers and other firms holding shares in their names that are beneficially owned by others to send proxy materials and obtain proxies from such beneficial owners, and will reimburse such banks, brokers and other firms for their reasonable out-of-pocket costs.

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The following table contains information regarding the beneficial ownership of our common stock as of March 31, 2017, held by: (i) each of our directors; (ii) each of our named executive officers in the Summary Compensation Table; (iii) all of our directors and executive officers as a group; and (iv) each person or group known by us to own beneficially more than 5% of the outstanding common stock. The information set forth in the table below excludes shares issuable upon exercise of our outstanding warrants held by certain investors that are presently exercisable, subject to limitations on exercisability for more than 4.9% or 9.9% of our outstanding shares of common stock, depending upon the particular investor. Except as indicated in the footnotes below, the address of the persons or groups named below is c/o Delcath Systems, Inc., 1633 Broadway, Suite 22C, New York, New York 10019.

Name of Beneficial Owner:	Shares Beneficially Owned ⁽¹⁾ Number	Percent
<i>Named Executive Officers and Directors:</i>		
Jennifer K. Simpson, Ph.D. ⁽²⁾	45,474	*
John Purpura, M.S. ⁽³⁾	38,067	*
Barbra C. Keck, M.B.A. ⁽⁴⁾	25,604	*
Harold S. Koplewicz, M.D. ⁽⁵⁾	4,688	*
Roger G. Stoll, Ph.D. ⁽⁶⁾	13,014	*
William D. Rueckert ⁽⁷⁾	5,625	*
Marco Taglietti, M.D. ⁽⁸⁾	16,875	*
All directors and executive officers as a group (7 people)⁽⁹⁾:	149,347	*

* Less than 1%

- (1) Except as indicated in these footnotes: (i) the persons named in this table have sole voting and investment power with respect to all shares of common stock beneficially owned; (ii) the number of shares beneficially owned by each person as of March 31, 2017, includes any vested and unvested shares of restricted stock and any shares of common stock that such person or group has the right to acquire within 60 days of March 31, 2017, upon the exercise of stock options; and (iii) for each person or group included in the table, percentage ownership is calculated by dividing the number of shares beneficially owned by such person or group by the sum of the 118,457,971 shares of common stock outstanding on March 31, 2017, plus the number of shares of common stock that such person or group has the right to acquire within 60 days of March 31, 2017.
- (2) Includes 3,098 shares of common stock, which Dr. Simpson has the right to acquire upon exercise of outstanding options exercisable within 60 days of March 31, 2017.
- (3) Includes 2,439 shares of common stock, which Mr. Purpura has the right to acquire upon exercise of outstanding options exercisable within 60 days of March 31, 2017.
- (4) Includes 1,549 shares of common stock, which Ms. Keck has the right to acquire upon exercise of outstanding options exercisable within 60 days of March 31, 2017, and 4 shares held in a joint account with her spouse.
- (5) Includes 1,875 shares of common stock, which Dr. Koplewicz has the right to acquire upon exercise of outstanding options exercisable within 60 days of March 31, 2017.
- (6) Includes 7,115 shares of common stock, which Dr. Stoll has the right to acquire upon exercise of outstanding options exercisable within 60 days of March 31, 2017.
- (7) Includes 3,125 shares of common stock, which Mr. Rueckert has the right to acquire upon exercise of outstanding options exercisable within 60 days of March 31, 2017.
- (8) Includes 3,125 shares of common stock, which Dr. Taglietti has the right to acquire upon exercise of outstanding options exercisable within 60 days of March 31, 2017.
- (9) Includes 22,326 shares of common stock, which certain directors and executive officers have the right to acquire upon exercise of outstanding options exercisable within 60 days of March 31, 2017.

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CORPORATE GOVERNANCE

Board of Directors. We have five directors serving on the Board of Directors. The Board of Directors oversees the business affairs of the Company and monitors the performance of management. In accordance with our corporate governance principles, our Board does not involve itself in day-to-day operations. The directors keep themselves informed through discussions with the Chairman of the Board, Roger G. Stoll, Jennifer K. Simpson, in her capacity as Director and Chief Executive Officer, or CEO, and other key executives, and by reading the reports and other materials that management sends them and by participating in Board and committee meetings. Our directors hold office until their successors have been elected and qualified unless the director resigns or is removed or by reason of death or other cause is unable to serve in the capacity of director.

Board Independence. The Board has determined that three of our five directors (each of Harold S. Koplewicz, William D. Rueckert and Marco Taglietti) are independent directors within the meaning of the NASDAQ listing rules.

Attendance. The Board of Directors met 17 times in 2016 (including regularly scheduled and annual meetings). During 2016, each director attended at least 75% of the aggregate of: (i) the total number of meetings of the Board (held during the period for which he or she served as a director) and (ii) the total number of meetings held by all committees of the Board of Directors on which he or she served (held during the period that he or she served). It is Delcath's policy that, absent unusual or unforeseen circumstances, all directors are expected to attend annual meetings of stockholders, and all attended our 2016 Annual Meeting.

Board Leadership Structure. Roger G. Stoll, Ph.D. was appointed Executive Chairman effective September 2014 and designated Chairman in connection with the appointment of Dr. Simpson as director effective October 2015. Dr. Stoll has been a member of the Board of Directors since 2008.

It is our policy to separate the Chairman and Chief Executive Officer roles. We believe this structure is appropriate for Delcath because it allows our President and CEO to concentrate on Delcath's day-to-day operations, while providing for effective oversight by the Chairman, who is involved in strategic and key matters, such as business strategy, major transactions and the broader business of Delcath. For a company like Delcath that is focused on the development, approval and commercialization of a specialized product in an extremely technical, highly regulated and intensely competitive industry, we believe our President and CEO is in the best position to lead our management team, in part because of the depth of her experience in conducting clinical trials in oncology, and to respond to the current pressures and needs of a company the stage of growth and development of Delcath, with assistance from our Chairman who also focuses the Board's attention on the broader issues of corporate business strategy and corporate governance. We believe that splitting the roles between Chairman, on the one hand, and President and CEO, on the other hand, minimizes any potential conflicts that may result from combining the roles of CEO, President and Chairman, and maximizes the effectiveness of our management and governance processes to the benefit of our stockholders. Our President and CEO and Chairman regularly consult with each other as part of this structure.

Board's Role in Risk Oversight. The Board as a whole is responsible for risk oversight, with reviews in certain areas being conducted by the relevant Board committees. Each of the Board's committees oversees the management of risks associated with their respective areas of responsibility. In performing this oversight function, the committees are assisted by management which provides visibility about the identification, assessment and monitoring of potential risks and management's strategy to mitigate such risks. Key members of management responsible for a particular area report directly to the Board committee charged with oversight of the associated function and, if the circumstances require, the whole Board. The Board committees review various risk exposures with the full Board and otherwise keep the full Board abreast of the committees' risk oversight activities throughout the year, as necessary or appropriate.

Risk Assessment of Compensation Programs. Our Compensation and Stock Option Committee annually evaluates whether our compensation programs encourage excessive risk-taking by employees at the expense of

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long-term Company value. Based upon its assessment, including a review of the overall annual award limitations and individual annual limitations in the Delcath 2009 Stock Incentive Plan and the Compensation Committee's role in the consideration and approval of certain awards, the Compensation and Stock Option Committee does not believe that our compensation programs encourage excessive or inappropriate risk-taking, motivate imprudent risk-taking or create risks that are reasonably likely to have a material adverse effect on the Company.

Director Continuing Education. We require our directors to attend, at least annually, educational programs provided by various universities, stock exchanges and other regulatory agencies to assist our directors in maintaining or enhancing their skills and abilities as directors and to update their knowledge and understanding of the pharmaceutical, medical device and biopharma industries and the regulatory environment in which Delcath operates and to which it is subject.

Board Committees. Our Board has three standing committees: an Audit Committee, a Compensation and Stock Option Committee and a Nominating and Corporate Governance Committee. No individual director is the chairman of more than one committee.

Audit Committee. The Audit Committee provides assistance to the Board in fulfilling its oversight responsibilities with respect to the Company's financial statements, the Company's system of internal accounting and financial controls and the independent audit of the Company's financial statements. Functions of the Audit Committee include:

the selection, evaluation and, where appropriate, replacement of our outside auditors;

an annual review and evaluation of the qualifications, performance and independence of our outside auditors;

the approval of all auditing services and permitted non-audit services provided by our outside auditors;

the review of the adequacy and effectiveness of our accounting and internal controls over financial reporting; and

the review and discussion with management and with our outside auditors of the Company's financial statements to be filed with the Securities and Exchange Commission (the "SEC").

The Board has determined that each member of the Audit Committee, William D. Rueckert (Chair), Harold S. Koplewicz (since April 6, 2016) and Marco Taglietti (since April 6, 2016) qualifies as an "audit committee financial expert" as defined by SEC rules. During 2016, the Audit Committee met 7 times. Each member of the Audit Committee is "independent" within the meaning of the NASDAQ listing rules and otherwise meets the financial statement proficiency requirements of the NASDAQ listing rules. The Audit Committee has a written charter, which is available on our website; go to www.delcath.com, click on "Investors," then "Corporate Governance."

Compensation and Stock Option Committee. The Compensation and Stock Option Committee (the "Compensation Committee") assists the Board of Directors in the discharge of the Board's responsibilities with respect to the compensation of Delcath's directors, executive officers, and other key employees and consultants. The Compensation Committee establishes our overall compensation philosophy and is authorized to approve the compensation payable to our executive officers, including our named executive officers, and other key employees, including all perquisites, equity incentive awards, cash bonuses, and severance packages. The Compensation Committee also administers certain of our employee benefit plans, including its equity incentive plans, and is responsible for assessing the independence of compensation consultants and legal advisors. The Compensation Committee has concluded that each of Morgan, Lewis & Bockius LLP, outside legal counsel to the Compensation Committee and the Company, as well as Pearl Meyer & Partners, compensation consultant to the Compensation Committee, qualified as independent. The Compensation Committee exercises sole power to retain compensation consultants and advisors and to determine the scope of the associated engagements.

The current members of the Compensation and Stock Option Committee are Marco Taglietti (Chair), Harold S. Koplewicz (since April 6, 2016) and William D. Rueckert (since April 6, 2016), each of whom is

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independent within the meaning of the NASDAQ listing rules. During 2016, the Compensation and Stock Option Committee met 10 times. The Compensation and Stock Option Committee has a written charter, which is available on our website; go to www.delcath.com, click on Investors, then Corporate Governance.

Nominating and Corporate Governance Committee. The Nominating and Corporate Governance Committee (the Nominating Committee) is responsible for identifying individuals qualified to become Board members, and recommends to the Board the director nominees to be proposed by the Board for election by the stockholders (as well as any director nominees to be appointed by the Board to fill interim vacancies). The Nominating Committee also recommends the directors to be selected for membership on each Board committee.

The Nominating Committee is also responsible for developing and recommending to the Board appropriate corporate governance guidelines and policies, and for leading the Board in its annual review of the Board's performance.

The current members of the Nominating Committee are Harold S. Koplewicz (Chair), William D. Rueckert and Marco Taglietti, each of whom is independent, within the meaning of the NASDAQ listing rules. During 2016, the Nominating Committee met 1 time. The Nominating Committee has a written charter, which is available on our website; go to www.delcath.com, click on Investors, then Corporate Governance.

The Nominating Committee, with, when it deems it necessary, the assistance of a third-party search firm, identifies candidates for director nominees. In considering candidates for the Board, the Nominating Committee considers each candidate's credentials as a whole, including, but not necessarily limited to, outstanding achievement in a candidate's personal career, broad and relevant experience, integrity, sound and independent judgment, experience and knowledge of the business environment and markets in which the Company operates, business acumen, and willingness and ability to devote adequate time to Board duties. The Nominating Committee considers the diversity of its members in the context of the Board as a whole, including the personal characteristics, experience and background of directors and nominees to facilitate Board deliberations that reflect a broad range of perspectives.

Recommendations by Stockholders of Director Nominees. The Nominating Committee will consider any recommendation by a stockholder of a candidate for nomination as a director. If a stockholder wants to recommend a director candidate for consideration by the Nominating Committee, the stockholder should submit the name of the proposed nominee, together with the reasons why the stockholder believes the election of the candidate would be beneficial to the Company and its stockholders and the information about the nominee that would be required in a proxy statement requesting proxies to vote in favor of the candidate. The stockholder's submission must be accompanied by the written consent of the proposed nominee to being nominated by the Board and the candidate's agreement to serve if nominated and elected. Any such submission should be directed to the Nominating Committee at Delcath's principal office, 1633 Broadway, Suite 22C, New York, New York 10019. If a stockholder intends to nominate a person for election to the Board of Directors at an annual meeting, the stockholder must provide Delcath with written notice of his or her intention no later than the deadline for receiving a stockholder proposal for inclusion in Delcath's proxy statement for such meeting (as described below under the heading *Stockholder Proposals For the 2018 Annual Meeting*) and must otherwise comply with our amended and restated certificate of incorporation. Copies of any recommendation received in accordance with these procedures will be distributed to each member of the Nominating Committee. One or more members of the Nominating Committee may contact the proposed candidate to request additional information.

Stockholder Communications with the Board of Directors. Any stockholder wishing to communicate with the Board or with any specified director should address his or her communication to the Board of Directors or to the particular director(s) in care of the Corporate Secretary, Delcath Systems, Inc., 1633 Broadway, Suite 22C, New York, New York 10019. All such written communication, other than items determined by our legal counsel to be inappropriate for submission to the intended recipient(s), will be submitted to the Board or to the particular director(s). Any stockholder communication not so delivered, will be made available upon request to any director. Examples of stockholder communications that would be considered inappropriate for submission

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include, without limitation, customer complaints, business solicitations, product promotions, job inquiries, junk mail and mass mailings, as well as material that is unduly hostile, threatening, illegal or similarly unsuitable.

Transactions with Related Persons. We have adopted a written policy for the review and approval or ratification of transactions between Delcath and Related Parties (as defined below). Under the policy, our Nominating Committee will review the material facts of proposed transactions involving Delcath in which a Related Party will have a direct or indirect material interest. The Nominating Committee will either approve or disapprove Delcath's entry into the transaction or, if advance approval is not feasible, will consider whether to ratify the transaction. The Nominating Committee may establish guidelines for ongoing transactions with a Related Party, and will review such transactions at least annually. If the aggregate amount of the transaction is expected to be less than \$200,000, such approval or ratification may be made by the Chair of the Committee. In determining whether to approve or ratify a transaction with a Related Party, the Nominating Committee (or Chair) will consider, among other factors, whether the transaction is on terms no less favorable than terms generally available to an unaffiliated third-party and the extent of the Related Party's interest in the transaction.

Certain transactions are deemed pre-approved under the policy, including compensation of executive officers and directors (except that employment of an immediate family member of an executive officer requires specific approval), and transactions with a company at which the Related Party's only relationship is as a non-officer employee, director, or less than 10% owner if the aggregate amount involved does not exceed 2% of such company's total annual revenues (or, in the case of charitable contributions by Delcath, 2% of the charity's total annual receipts). Pre-approval is not required if the amount involved in the transaction is not expected to exceed \$120,000 in any calendar year.

For purposes of the policy, a Related Party is generally anyone who since the beginning of the last full fiscal year is or was an executive officer, director or director nominee, owner of more than 5% of the common stock, or immediate family member of any of such persons.

No related person transactions occurred during 2016.

Compensation Committee Interlocks and Insider Participation. During 2016, Marco Taglietti and William D. Rueckert served as members of our Compensation and Stock Option Committee. Laura A. Philips and Dennis H. Langer, former directors, each served on the Compensation and Stock Option Committee until their resignations on April 3, 2016 and April 4, 2016, respectively. None of the current members or members serving during 2016 of the Compensation and Stock Option Committee is a current or former officer or employee of Delcath at the time of their service on the Compensation and Stock Option Committee, nor did any Compensation and Stock Option Committee member engage in any related person transaction that would be required to be disclosed under Item 404 of Regulation S-K. During 2016, none of Delcath's executive officers served on the compensation committee (or equivalent) or on the board of directors of another entity whose executive officers served on the Compensation and Stock Option Committee or our Board of Directors.

Code of Ethics. We maintain a Code of Business Conduct and Ethics (Code) that applies to all employees, including our principal executive officer, principal financial officer, principal accounting officer, controller and persons performing similar functions, and including our independent directors, who are not employees of the Company, with regard to their Delcath-related activities. The Code incorporates guidelines designed to deter wrongdoing and to promote honest and ethical conduct and compliance with applicable laws, rules and regulations. The Code also incorporates our expectations of our employees that enable us to provide accurate and timely disclosure in our filings with the SEC and other public communications. In addition, the Code incorporates guidelines pertaining to topics such as complying with applicable laws, rules, and regulations; insider trading; reporting Code violations; and maintaining accountability for adherence to the Code. The full text of our Code is published on our web site at <http://delcath.com/investors/governance>. We intend to disclose future amendments to certain provisions of our Code, or waivers of such provisions granted to our principal executive officer, principal financial officer or principal accounting officer and persons performing similar functions on our web site.

Table of Contents**PROPOSAL 1: ELECTION OF DIRECTORS**

Following the Annual Meeting, we expect our Board of Directors to consist of five directors divided into three equal classes. Directors hold office for staggered terms of three years (and until their successors are elected and qualified). One of the three classes is elected each year to succeed the directors whose terms are expiring. At the Annual Meeting, one Class II director will be elected to the Board. Harold S. Koplewicz, M.D. is currently serving as a Class II director and has been nominated for re-election to the Board as a Class II director by our Board of Directors upon the recommendation of the Nominating Committee. The nominee has consented to be named as a nominee and to serve if elected. Should the nominee become unable to serve as a director (which the Board does not expect), the Board may designate a substitute nominee. In that case, the persons named as proxies will vote for the substitute nominee designated by the Board. Proxies cannot be voted for a greater number of persons than the number of nominees named in this Proxy Statement.

VOTE REQUIRED

Assuming a quorum is met, the nominee receiving the highest number of affirmative votes of shares present or represented by proxy and entitled to vote on such matter shall be elected as directors.

THE BOARD OF DIRECTORS RECOMMENDS A VOTE FOR THE ELECTION OF HAROLD S. KOPLEWICZ, M.D.

This proposal will be effective upon its approval by our stockholders at the Annual Meeting and is not conditioned upon the approval by our stockholders of any other proposal. As each proposal will be presented to our stockholders at the Annual Meeting in the order presented herein, if this proposal is approved by our stockholders, it will become effective **FIRST**.

Information About Directors and Director Nominee. The following table sets forth certain information about our director standing for re-election and about our directors whose terms will continue after the Annual Meeting.

Name	Age	Position with Delcath	Director Since
<i>Class II Director Nominee to serve as director for the term expiring at the 2020 Annual Meeting</i>			
Harold S. Koplewicz, M.D.	64	Director	2006
<i>Class I Directors Term expiring at the 2019 Annual Meeting</i>			
William D. Rueckert	64	Director	2014
Marco Taglietti, M.D.	57	Director	2014
<i>Class III Directors Terms expiring at the 2018 Annual Meeting</i>			
Roger G. Stoll, Ph.D.	74	Chairman	2008
Jennifer K. Simpson, Ph.D.			