

CYTRX CORP
Form PRE 14A
May 05, 2011

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 14A

INFORMATION REQUIRED IN PROXY STATEMENT

SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(a) of the Securities
Exchange Act of 1934 (Amendment No.)

Filed by the Registrant R
Filed by a Party other than the Registrant F

Check the appropriate box:

R Preliminary Proxy Statement
 F Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
 F Definitive Proxy Statement
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CytRx Corporation
(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):

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

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(1) Amount Previously Paid:

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

(3) Filing Party:

(4) Date Filed:

11726 San Vicente Boulevard, Suite 650
Los Angeles, California 90049

May ____, 2011

Dear Stockholder:

You are cordially invited to attend the 2011 Annual Meeting of Stockholders of CytRx Corporation. The meeting will be held at the Four Seasons Hotel Los Angeles, 300 South Doheny Drive, Los Angeles, California, at 10:00 A.M., local time, on Thursday, June 30, 2011.

The Notice of Meeting and the Proxy Statement on the following pages cover the formal business of the Annual Meeting. At the Annual Meeting, I will also report on CytRx's current operations and will be available to respond to appropriate questions from stockholders.

We sincerely hope you will be able to attend the Annual Meeting. Whether or not you plan to attend, however, and regardless of the number of shares you own, it is important that your shares be represented at the Annual Meeting. Therefore, please take the time to vote your shares by completing and mailing the enclosed proxy card to us.

Thank you for your continued support.

Sincerely,

/s/ STEVEN A. KRIEGSMAN

Steven A. Kriegsman
President and Chief Executive Officer

11726 San Vicente Boulevard, Suite 650
Los Angeles, California 90049

NOTICE OF ANNUAL MEETING OF STOCKHOLDERS
to be held on June 30, 2011

Notice is hereby given to the holders of common stock, \$.001 par value per share, of CytRx Corporation that the Annual Meeting of Stockholders will be held on Thursday, June 30, 2011 at the Four Seasons Hotel Los Angeles, 300 South Doheny Drive, Los Angeles, California, at 10:00 A.M., local time, for the following purposes:

- (1) To elect two directors to serve until the 2014 Annual Meeting of Stockholders;
- (2) To approve an amendment to the CytRx Corporation Restated Certificate of Incorporation to increase the authorized number of shares of common stock from 175,000,000 to 250,000,000;
- (3) To approve, by non-binding vote, the compensation of our named executive officers as disclosed in this proxy statement;
- (4) To recommend, by non-binding vote, the frequency of future stockholder advisory votes to approve the compensation of our named executive officers;
- (5) To ratify the selection of BDO USA, LLP as our independent registered public accounting firm for the fiscal year ending December 31, 2011; and
- (6) To transact such other business as may properly come before the Annual Meeting and at any postponement or adjournment thereof.

Only those stockholders of record at the close of business on May 2, 2011 are entitled to notice of and to vote at the Annual Meeting and at any postponement or adjournment thereof. A complete list of stockholders entitled to vote at the Annual Meeting will be available at the Annual Meeting.

By Order of the Board of Directors,

/s/ BENJAMIN S. LEVIN

Benjamin S. Levin
Corporate Secretary

May ___, 2011

WHETHER OR NOT YOU PLAN TO ATTEND THE ANNUAL MEETING, PLEASE COMPLETE, SIGN, DATE, AND RETURN THE ENCLOSED PROXY PROMPTLY IN THE ENCLOSED BUSINESS REPLY ENVELOPE (OR USE TELEPHONE OR INTERNET VOTING PROCEDURES, IF AVAILABLE THROUGH YOUR BROKER). IF YOU ATTEND THE ANNUAL MEETING AND WISH TO DO SO, YOU MAY REVOKE YOUR PROXY AND VOTE IN PERSON.

11726 San Vicente Boulevard, Suite 650
Los Angeles, California 90049

To Be Held June 30, 2011

PROXY STATEMENT

This Proxy Statement is furnished to holders of common stock, \$.001 par value per share, of CytRx Corporation, a Delaware corporation, in connection with the solicitation of proxies by our Board of Directors for use at our 2011 Annual Meeting of Stockholders to be held at the Four Seasons Hotel Los Angeles, 300 South Doheny Drive, Los Angeles, California, at 10:00 A.M., local time, on Thursday, June 30, 2011, and at any postponement or adjournment thereof.

This Proxy Statement and the accompanying proxy card are first being mailed to our stockholders on or about May ___, 2011.

What is the purpose of the Annual Meeting?

At the Annual Meeting, stockholders will act upon the matters referred to in the attached Notice of Meeting and described in detail in this Proxy Statement. These matters are:

- the election of two directors;
- the approval of an amendment to our Restated Certificate of Incorporation;
- to approve, by non-binding vote, the compensation of our named executive officers as disclosed in this proxy statement;
- to recommend, by non-binding vote, the frequency of future stockholder advisory votes to approve the compensation of our named executive officers; and
- the ratification of our appointment of independent accountants.

In addition, management will report on our performance during fiscal 2010 and respond to appropriate questions from stockholders.

Who is entitled to vote at the Annual Meeting?

Only stockholders of record at the close of business on May 2, 2011 are entitled to notice of, and to vote at, the Annual Meeting and at any adjournment or postponement thereof.

What constitutes a quorum?

Our Restated Bylaws provide that the presence, in person or by proxy, at our Annual Meeting of the holders of a majority of outstanding shares of our common stock will constitute a quorum for the transaction of business.

For the purpose of determining the presence of a quorum, proxies marked “withhold authority” or “abstain” will be counted as present. Shares represented by proxies that include so-called broker non-votes (shares held by a broker or

nominee that has no authority to vote upon a particular matter) also will be counted as shares present for purposes of establishing a quorum. On the record date, there were 109,227,069 shares of our common stock issued and outstanding, exclusive of treasury shares.

What are the voting rights of the holders of our common stock?

Holders of our common stock are entitled to one vote per share with respect to each of the matters to be presented at the Annual Meeting. With regard to the election of directors, the three nominees receiving the greatest number of votes cast will be elected. Approval of the amendment to our Restated Certificate of Incorporation will require the affirmative vote of the holders of a majority of the outstanding shares of common stock. Approval of each of the other proposals requires the affirmative vote of a majority of the shares present in person or represented by proxy and entitled to vote on that proposal at the Annual Meeting.

In the election of directors, you may vote "FOR," "AGAINST" or "ABSTAIN" with respect to each of the nominees. If you abstain in the election of directors, it will not impact the election of directors. In tabulating the voting results for the election of directors, only "FOR" and "AGAINST" votes are counted.

With respect to Proposal 4, the advisory vote on the frequency of holding future advisory votes on executive compensation, you may vote "EVERY YEAR," "EVERY TWO YEARS," "EVERY THREE YEARS" or "ABSTAIN." If you abstain from voting on Proposal 4, it will not have an effect on the outcome of the vote.

With respect to each of Proposals 3 and 5, you may vote "FOR," "AGAINST" or "ABSTAIN." If you elect to abstain, it will have the same effect as an "AGAINST" vote.

What are the Board's recommendations?

The recommendations of our Board of Directors are set forth together with the description of each Proposal in this Proxy Statement. In summary, our Board of Directors recommends a vote:

- "FOR" election of the incumbent directors named in this Proxy Statement as described in Proposal 1;
- "FOR" approval of the amendment to our Restated Certificate of Incorporation as described in Proposal 2;
- "FOR" approval of the compensation of our named executive officers as disclosed in this Proxy Statement as described in Proposal 3.
- "EVERY YEAR" for the conduct of an advisory vote on the compensation of our named executive officers as described in Proposal 4; and
- "FOR" ratification of the appointment of BDO USA, LLP as our independent registered public accounting firm for the year ending December 31, 2011 as described in Proposal 5.

Proxies

If the enclosed proxy card is executed, returned in time and not revoked, the shares represented thereby will be voted at the Annual Meeting and at any postponement or adjournment thereof in accordance with the directions indicated on the proxy card. IF NO DIRECTIONS ARE INDICATED, PROXIES WILL BE VOTED IN ACCORDANCE WITH OUR BOARD OF DIRECTORS' RECOMMENDATIONS IN THIS PROXY STATEMENT AND, AS TO ANY OTHER MATTERS PROPERLY BROUGHT BEFORE THE ANNUAL MEETING OR ANY POSTPONEMENT OR ADJOURNMENT THEREOF, IN THE SOLE DISCRETION OF THE PROXIES.

A stockholder who returns a proxy card may revoke it at any time prior to its exercise at the Annual Meeting by (i) giving written notice of revocation to our Corporate Secretary prior to the Annual Meeting, (ii) properly submitting

to us prior to the Annual Meeting a duly executed proxy bearing a later date, or (iii) appearing at the Annual Meeting and voting in person. All written notices of revocation of proxies should be addressed as follows: CytRx Corporation, 11726 San Vicente Boulevard, Suite 650, Los Angeles, California 90049, Attention: Corporate Secretary.

IMPORTANT NOTICE REGARDING THE INTERNET AVAILABILITY OF PROXY MATERIALS

This proxy statement and our Annual Report on Form 10-K for the fiscal year ended December 31, 2010 are available on our website at www.cytrx.com

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PROPOSAL 1

ELECTION OF DIRECTORS

Pursuant to our Restated Bylaws, our Board of Directors has fixed the number of our directors at seven. Our Restated Certificate of Incorporation and our Bylaws provide for the classification of these directors into three classes, which we refer to as Class I, Class II and Class III, with each Class to consist as nearly as possible of an equal number of directors. One Class of directors is to be elected at each annual meeting of stockholders to serve for a term of three years.

We have two incumbent directors in Class II whose terms expire at the Annual Meeting. The Board of Directors has nominated the incumbent Class II directors, Steven A. Kriegsman and Marvin R. Selter, for reelection as Class II directors to serve until the 2014 Annual Meeting of Stockholders and until their successors are duly elected and qualified. At a meeting of our Board of Directors on May 2, 2011, Mr. Wennkamp resigned as a Class II director and was reappointed by our Board as a Class III director in order to make the number of directors in each class equal.

Information concerning Messrs. Kriegsman and Selter, as well as the directors whose terms of office will continue after the Annual Meeting, is set forth below. Each director's age is indicated in parentheses after his name.

Class II — Nominees to Serve as Directors Until the 2014 Annual Meeting

We believe that Messrs. Kriegsman and Selter will be available and able to serve as directors. In the event that one of them is unable or unwilling to serve, the proxy holders will vote the proxies for such other nominee as they may determine.

Steven A. Kriegsman (69) has been has been CytRx's President and Chief Executive Officer and a director since July 2002. He also serves as a director of RXi Pharmaceuticals Corporation and is Chairman of its Compensation and Transactions Committees. He previously served as Director and Chairman of Global Genomics from June 2000. Mr. Kriegsman is an inactive Chairman and Founder of Kriegsman Capital Group LLC, a financial advisory firm specializing in the development of alternative sources of equity capital for emerging growth companies in the healthcare industry. During his career, he has advised such companies as SuperGen Inc., Closure Medical Corporation, Novoste Corporation, Miravant Medical Technologies, and Maxim Pharmaceuticals. In the past five years, Mr. Kriegsman has also served on the Board of Directors of Bradley Pharmaceuticals, Inc. and Hythiam, Inc. Mr. Kriegsman has a B.S. degree with honors from New York University in Accounting and completed the Executive Program in Mergers and Acquisitions at New York University, The Management Institute. Mr. Kriegsman is a graduate of the Stanford Law School Directors' College.

Mr. Kriegsman was formerly a Certified Public Accountant with KPMG in New York City. In February 2006, Mr. Kriegsman received the Corporate Philanthropist of the Year Award from the Greater Los Angeles Chapter of the ALS Association and in October 2006, he received the Lou Gehrig Memorial Corporate Award from the Muscular Dystrophy Association. Mr. Kriegsman has been a guest speaker and lecturer at various universities including California Institute of Technology (Caltech), Brown University, and New York University. Mr. Kriegsman has been active in various charitable organizations including the Biotechnology Industry Organization, the California Health Institute, the ALS Association, the Los Angeles Venture Association, the Southern California Biomedical Council, the American Association of Dance Companies and the Palisades-Malibu YMCA.

Marvin R. Selter (83) has been a director since October 2003. He has been President and Chief Executive Officer of CMS, Inc. since he founded that firm in 1968. CMS, Inc. is a national management consulting firm. In 1972, Mr. Selter originated the concept of employee leasing. He served as a member of the Business Tax Advisory

Committee—City of Los Angeles, Small Business Board—State of California and the Small Business Advisory Commission—State of California. Mr. Selter also serves on the Valley Economic Development Center as past Chairman and Audit Committee Chairman, the Board of Valley Industry and Commerce Association as past Chairman, the Advisory Board of the San Fernando Economic Alliance and the California State University—Northridge as Past Chairman of the Economic Research Center and President of the Olive View UCLA Medical Center Foundation. He has served, and continues to serve, as a member of boards of directors of various hospitals, universities, private medical companies and other organizations. Mr. Selter attended Rutgers—The State University, majoring in Accounting and Business Administration. He was an LPA having served as Controller, Financial Vice President and Treasurer at distribution, manufacturing and service firms. He has lectured extensively on finance, corporate structure and budgeting for the American Management Association and other professional teaching associations.

Mr. Selter has founded, operated, and grown his own successful businesses, which gives him a valuable insight into the financial constraints and operational challenges facing companies in the development stage and as they mature. He also has many years of involvement in various governmental agencies and charitable organizations, which affords him an important perspective on

the business regulatory process and capital-raising activities. In addition, he has significant education and work experience in accounting and financial matters that he is able to utilize as the named financial expert on our Audit Committee.

THE BOARD OF DIRECTORS RECOMMENDS A VOTE “FOR” ELECTION OF MR. KRIEGSMAN AND MR. SELTER AS DIRECTORS.

Continuing Directors

The following is a description of the incumbent directors in and Class III and Class I whose terms of office will continue after the Annual Meeting:

Class III — Term Expiring at the 2012 Annual Meeting

Max Link, Ph.D. (70), our Chairman of the Board, has been a director since 1996. Dr. Link has been retired from business since 2003. From March 2002 until its acquisition by Zimmer Holdings, Dr. Link served as Chairman and CEO of Centerpulse, Ltd. From May 1993 to June 1994, Dr. Link served as the Chief Executive Officer of Corange Ltd. (the holding company for Boehringer Mannheim Therapeutics, Boehringer Mannheim Diagnostics and DePuy International). From 1992 to 1993, Dr. Link was Chairman of Sandoz Pharma, Ltd. From 1987 to 1992, Dr. Link was the Chief Executive Officer of Sandoz Pharma and a member of the Executive Board of Sandoz, Ltd., Basel. Prior to 1987, Dr. Link served in various capacities with the United States operations of Sandoz, including President and Chief Executive Officer. Dr. Link also serves as a director of Alexion Pharmaceuticals, Inc., Celsion Corporation, Inc. and Discovery Laboratories, Inc.

Dr. Link has extensive executive-level experience with a number of large pharmaceutical companies, including Sandoz Pharma, Ltd. In these positions, he was responsible for major strategic and other business initiatives, including new drug development, acquisitions and dispositions of new drug candidates and other technology, licensing, marketing and distribution agreements and other key contractual strategic arrangements that affect, or are likely to affect, our company's own business efforts. As an executive officer and board member of these other companies, he has experience with the regulatory schemes in foreign jurisdictions and also has been exposed to different approaches to corporate governance matters, potential conflicts of interest, and similar matters, which enables him to offer importance guidance to our Board of Directors.

Richard L. Wennekamp (68) has been a director since October 2003. He retired from Community Bank in June 2008 where he was the Senior Vice President-Credit Administration since October 2002. From September 1998 to July 2002, Mr. Wennekamp was an executive officer of Bank of America Corporation, holding various positions, including Managing Director-Credit Product Executive for the last four years of his 22-year term with the bank. From 1977 through 1980, Mr. Wennekamp was a Special Assistant to former President of the United States, Gerald R. Ford, and the Executive Director of the Ford Transition Office. Prior thereto, he served as Staff Assistant to the President of the United States for one year, and as the Special Assistant to the Assistant Secretary of Commerce of the U.S.

Mr. Wennekamp's senior executive experience in the banking and financial services industry distinguishes him from our other directors and adds unique capabilities and a different perspective to the deliberations of our Board of Directors. As a former chief credit officer at Bank of America and Community Bank, he understands the credit needs, financing requirements, and operational constraints of development-stage and mature businesses.

Class I — Term Expiring at the 2013 Annual Meeting

Louis Ignarro, Ph.D. (69) has been a director since July 2002. He previously served as a director of Global Genomics since November 20, 2000. Dr. Ignarro serves as the Jerome J. Belzer, M.D. Distinguished Professor of Pharmacology in the Department of Molecular and Medical Pharmacology at the UCLA School of Medicine. Dr. Ignarro has been at the UCLA School of Medicine since 1985 as a professor, acting chairman and assistant dean. Dr. Ignarro received the Nobel Prize for Medicine in 1998. Dr. Ignarro received a B.S. in pharmacy from Columbia University and his Ph.D. in Pharmacology from the University of Minnesota. Dr. Ignarro is a Nobel Laureate and an esteemed medical researcher whose experience enables him to offer importance scientific guidance to our Board of Directors.

Joseph Rubinfeld, Ph.D. (78) has been a director since July 2002. He co-founded SuperGen, Inc. in 1991 and has served as its Chief Executive Officer and President and as a director since its inception until December 31, 2003. He resigned as Chairman Emeritus of SuperGen, Inc. on February 8, 2005. Dr. Rubinfeld was also Chief Scientific Officer of SuperGen from 1991 until September 1997. Dr. Rubinfeld is also a founder of JJ Pharma. Dr. Rubinfeld was one of the four initial founders of Amgen, Inc. in 1980 and served as a Vice President and its Chief of Operations until 1983. From 1987 until 1990, Dr. Rubinfeld was a Senior Director at Cetus Corporation and from 1968 to 1980, Dr. Rubinfeld was employed at Bristol-Myers Company, International Division in a variety of positions. Dr. Rubinfeld received a B.S. degree in chemistry from C.C.N.Y. and an M.A. and Ph.D. in chemistry from Columbia University.

Dr. Rubinfeld served as a senior executive of several large pharmaceutical companies before leaving to co-found and serves as Chief Executive Officer or in other senior executive capacities with highly successful companies. Dr. Rubinfeld's academic training and business experience enhances the breadth and scope of our Board's oversight of our company's management, business, strategic relationships, and other activities, while his vision adds to the long-range planning of our Board of Directors and management.

Meetings of the Board of Directors and Committees

Board of Directors

The property, affairs and business of CytRx are conducted under the general supervision and management of our Board of Directors as called for under the laws of Delaware and our Restated Bylaws. Our Board of Directors has established a standing Audit Committee, Compensation Committee, and Nomination and Governance Committee.

The Board of Directors held seven meetings during 2010. Each director attended at least 75% of the total meetings of the Board during 2010, except Dr. Ignarro. Each director who served on a committee of our Board of Directors attended at least 75% of all committee meetings during 2010. Board agendas include regularly scheduled executive sessions for the independent directors to meet without management present. In 2010, the independent directors met two times in executive session.

Director Independence

Our Board of Directors has determined that Messrs. Link, Ignarro, Selter and Wennekamp each is "independent" under the current independence standards of both The NASDAQ Capital Market and the Securities and Exchange Commission, or SEC, and have no material relationships with us (either directly or as a partner, shareholder or officer of any entity) that could be inconsistent with a finding of their independence as members of our Board of Directors or as the members of our Audit Committee. Our Board of Directors also has determined that Mr. Selter, one of the independent directors serving on our Audit Committee, is an "audit committee financial expert" as defined by SEC rules.

The following table provides information concerning the current membership of our Board committees:

Name	Class of Directors	Audit Committee	Compensation Committee	Nomination and Governance Committee
Steven A. Kriegsman	II			
Louis Ignarro, Ph.D.	I			
Max Link, Ph.D.	III	(1)	(2)	(3)
Joseph Rubinfeld, Ph.D.	I			
Marvin R. Selter	II	(1)	(2)	(3)
Richard L. Wennekamp	III	(1)	(2)	(3)

(1) Members of our Audit Committee. Mr. Selter is the Chairman of the Committee.

(2) Members of our Compensation Committee. Mr. Wennekamp is Chairman of the committee.

(3) Members of our Nominating and Corporate Governance Committee. Mr. Wennkamp is Chairman of the Committee.

Audit Committee

Our Board of Directors has determined that each of the current members of the Audit Committee are “independent” under the current independence standards of The NASDAQ Capital Market.

The Audit Committee’s responsibilities include oversight activities described below under the “Report of the Audit Committee.” The Audit Committee reviews our financial structure, policies and procedures, appoints our independent registered public accounting firm, reviews with our independent registered public accounting firm the plans and results of the audit engagement, approves permitted non-audit services provided by our independent registered public accounting firm, reviews the independence of our independent registered public accountants and reviews the adequacy of our internal accounting controls.

The Audit Committee has discussed with our independent registered public accounting firm the firm's independence from management and us, including the matters in the written disclosures required by the Independence Standards Board and considered the compatibility of permitted non-audit services with the auditors' independence. The Audit Committee operates pursuant to a written charter, a copy of which is available on our website at <http://www.cytrx.com>.

Audit Committee Report

Set forth below is the Audit Committee Report:

The following Report does not constitute soliciting material and should not be considered or deemed filed, or incorporated by reference into any filing, by us with the SEC, except to the extent we specifically incorporate this Report by reference.

The primary function of the Audit Committee is to assist the Board of Directors in fulfilling its oversight responsibilities relating to:

- The quality and integrity of our financial statements and reports.
- Our independent registered public accounting firm's qualifications and independence.
- The performance of our internal audit function and our independent auditors.

The Audit Committee operates under a written charter adopted by the Board of Directors in April 2003, which was amended by the Board of Directors in March 2007.

The Audit Committee's primary duties and responsibilities are to:

- Serve as an independent and objective party to monitor our financial reporting process and internal control system.
 - Review and appraise the audit efforts of our independent accountants and internal audit function.
- Provide an open avenue of communication among the independent accountants, internal auditors, our management and the Board of Directors.

The Audit Committee provides assistance to the Board of Directors in fulfilling its oversight responsibility to the stockholders, potential stockholders, the investment community and others relating to our financial statements and the financial reporting process, the systems of internal accounting and financial controls, the internal audit function, the annual independent audit of our financial statements and the ethics programs when established by our management and the Board of Directors. The Audit Committee has the sole authority (subject, if applicable, to stockholder ratification) to appoint or replace the outside auditors and is directly responsible for determining the compensation of the independent auditors.

The Audit Committee must pre-approve all auditing services and all permitted non-auditing services to be provided by the outside auditors. In general, the Audit Committee's policy is to grant such approval where it determines that the non-audit services are not incompatible with maintaining the auditors' independence and there are cost or other efficiencies in obtaining such services from the auditors as compared to other possible providers. During 2010, the Audit Committee approved all of the non-audit services proposals submitted to it.

The Audit Committee met five times during 2010. The Audit Committee schedules its meetings with a view to ensuring that it devotes appropriate attention to all of its tasks. In discharging its oversight role, the Audit Committee is empowered to investigate any matter brought to its attention, with full access to all of our books, records, facilities and personnel, and to retain its own legal counsel and other advisers as it deems necessary or appropriate.

As part of its oversight o