

ZIOPHARM ONCOLOGY INC

Form 10-K/A

April 30, 2018

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UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

FORM 10-K/A

(Amendment No. 1)

(Mark One)

**ANNUAL REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the fiscal year ended December 31, 2017**

OR

**TRANSITION REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF
1934**

For the transition period from _____ to _____

Commission File Number 001-33038

ZIOPHARM Oncology, Inc.

(Exact Name of Registrant as Specified in Its Charter)

Delaware
(State or Other Jurisdiction of
Incorporation or Organization)

84-1475642
(IRS Employer
Identification No.)

One First Avenue, Parris Building 34, Navy Yard Plaza

Boston, Massachusetts
(Address of Principal Executive Offices)

02129
(Zip Code)

(617) 259-1970

(Registrant's Telephone Number, Including Area Code)

Securities registered pursuant to Section 12(b) of the Act:

Common Stock (par value \$0.001 per share)

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Act. Yes No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the past 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See definition of large accelerated filer, accelerate filer and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

Large Accelerated Filer

Accelerated Filer

Non-Accelerated Filer

Smaller Reporting Company

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes No

The aggregate market value of the registrant's common stock held by non-affiliates was \$808,804,937 as of June 30, 2017 (the last business day of the registrant's most recently completed second fiscal quarter), based on a total of 130,032,948 shares of common stock held by non-affiliates and a closing price of \$6.22 as reported on the Nasdaq Capital Market on June 30, 2017. For purposes of this computation, all officers, directors, and 10% beneficial owners of the registrant are deemed to be affiliates. Such determination should not be deemed to be an admission that such officers, directors or 10% beneficial owners, are, in fact, affiliates of the registrant.

As of April 17, 2018, there were 142,651,612 shares of the registrant's common stock, \$0.001 par value per share, outstanding.

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EXPLANATORY NOTE

Ziopharm Oncology, Inc. (which may be referred to herein as we, us or the Company) is filing this Amendment No. 1 to Annual Report on Form 10-K/A (this Amended Filing) to amend its Annual Report on Form 10-K for the fiscal year ended December 31, 2017 (the Original Filing), as originally filed with the U.S. Securities and Exchange Commission (the SEC) on March 1, 2018 (the Original Filing Date), to include the information required by Items 10 through 14 of Part III of Form 10-K (the Part III Information). The Part III Information was previously omitted from the Original Filing in reliance on General Instruction G(3) to Form 10-K, which permits the Part III Information to be incorporated by reference in the Form 10-K by reference from the Company's definitive proxy statement if such statement is filed no later than 120 days after the end of the fiscal year covered by the Original Filing. The Company is filing this Amended Filing to include the Part III Information because it may not file a definitive proxy statement containing such information within 120 days after the end of the fiscal year covered by the Original Filing. The reference on the cover of the Original Filing to the incorporation by reference to portions of the Company's definitive proxy statement into Part III of the Original Filing is hereby deleted.

This Amendment hereby amends Part III, Items 10 through 14, and Part IV, Item 15 of the Original Filing. In addition, pursuant to Rule 12b-15 under Securities Exchange Act of 1934, as amended, this Amended Filing also contains new certifications pursuant to Section 302 of the Sarbanes-Oxley Act of 2002, which are attached hereto. Because no financial statements have been amended by or included in this Amended Filing and this Amended Filing does not contain or amend any disclosure with respect to Items 307 and 308 of Regulation S-K, paragraphs 3, 4 and 5 of the certifications have been omitted.

The Amended Filing does not amend, modify or otherwise update any other information in the Original Filing. Accordingly, this Amended Filing should be read in conjunction with the Original Filing. In addition, this Amended Filing does not reflect events that may have occurred subsequent to the Original Filing Date.

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ZIOPHARM Oncology, Inc.

ANNUAL REPORT ON FORM 10-K/A

FOR THE FISCAL YEAR ENDED DECEMBER 31, 2017

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All trademarks, trade names and service marks appearing in this Amendment No. 1 to Annual Report on Form 10-K are the property of their respective owners.

Table of Contents**PART III*****Item 10. Directors, Executive Officers and Corporate Governance*****CURRENT DIRECTORS AND EXECUTIVE OFFICERS**

Our board of directors currently consists of five directors. On March 12, 2018, Michael Weiser, M.D., Ph.D. resigned from our board of directors and all committees thereof. Following Dr. Weiser's resignation, there are two vacancies on our board of directors. The following table contains biographical information, as of April 17, 2018, of each of our current directors and executive officers.

There are no family relationships among any of our current directors, director nominees or executive officers. None of the executive officers is related by blood, marriage or adoption to any of our other directors, director nominees or executive officers.

Sir Murray Brennan, M.D., GNZM

Lead Director

Dr. Brennan, who currently serves as the board's non-executive Lead Director, has been one of our directors since our September 2005 acquisition of Ziopharm, Inc. and previously served as a director of Ziopharm, Inc. since December 2004. Dr. Brennan is Emeritus Chairman of Memorial Sloan-Kettering's Department of Surgery and previously served as its Chairman from 1985 to 2007. Dr. Brennan is the Benno C. Schmidt Chair in Clinical Oncology at the Memorial Sloan Kettering Cancer Center, and currently serves as its Vice President for International Programs. Dr. Brennan also is a member of the Institute of Medicine of The National Academy of Sciences. He actively lectures at major institutions throughout the world and has authored or co-authored more than 1,000 scientific papers. He previously served as a director of the American Board of Surgery, Chairman of the American College of Surgeons Commission on Cancer, President of the Society of Surgical Oncology, President of the American Surgical Association, President of the Society of Clinical Surgery and Vice President of the American College of Surgeons. He is the recipient of numerous honors, honorary degrees and fellowships for his leadership role in surgery and oncology worldwide. He serves on the board of directors of the de Beaumont Foundation, a charitable foundation designed to support public health in the United States and elsewhere. He received a knighthood from her Majesty the Queen of England in January 2015. Dr. Brennan is 78 years old.

Dr. Brennan's credentials and standing in the medical community worldwide, and the oncology community specifically, along with the leadership roles in which he has served at various esteemed organizations, provide experience and credibility that the board believes make him well suited to serve on the board and as its non-executive Lead Director.

James A. Cannon

Director

Mr. Cannon has been one of our directors since our September 2005 acquisition of Ziopharm, Inc. and previously served as a director of Ziopharm, Inc. since December 2004. Mr. Cannon is currently Vice Chairman, Chief Financial Officer and a member of the board of directors of BBDO Worldwide, an advertising agency. In these capacities, he oversees the financial management of BBDO operations in 77 countries. Mr. Cannon joined BBDO in 1967, was promoted to Chief Financial Officer of the agency in 1984, and was elected to its board of directors one year later. An integral member of the team that formed Omnicom via a unique three-agency merger of BBDO, DDB and Needham Harper & Steers, Mr. Cannon became Comptroller of the new group and a member of its board of directors in 1986, a position he held through 2002. In 1987, he was appointed Director of Financial Operations of the Omnicom Group, serving in this capacity until early 1989 when he rejoined BBDO Worldwide as Executive Vice President and Chief Financial Officer. His return was concurrent with that of Allen Rosenshine who became Chairman and Chief Executive Officer of BBDO after heading Omnicom. Mr. Cannon was promoted to Vice Chairman of the agency in 1990. Mr. Cannon is a graduate of Pace University and served in the U.S. Marine Corps. Mr. Cannon is 79 years old.

The board believes that Mr. Cannon is qualified to serve as one of our directors based on his financial skills and overall business judgment. In addition, the role played by Mr. Cannon at BBDO, where he oversees the financial management of that company's international operations, uniquely qualifies him to serve as Chair of our audit committee.

Senator Wyche Fowler, Jr.

Director

Senator Fowler has been one of our directors since our September 2005 acquisition of Ziopharm, Inc. and previously served as a director of Ziopharm, Inc. since December 2004. Senator Fowler served for 16 years in the United States Congress representing the state of Georgia, from April 1977 to January 1993. In the U.S. Senate he served as assistant floor leader, helping mold a bipartisan consensus for major public policy issues. Senator Fowler

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was a member of the U.S. Senate Appropriations, Budget, Energy and Agriculture Committees. First elected to the U.S. House of Representatives, he was a member of the Ways and Means and Foreign Affairs Committees, as well as the Select Committee on Intelligence. Following his service in the United States Congress, Senator Fowler served as U.S. Ambassador to the Kingdom of Saudi Arabia from 1996 through 2001. On his return, the FBI awarded him its highest civilian honor, The Jefferson Cup, for his assistance in combating terrorism and for helping solve terrorism crimes against the U.S. military in Saudi Arabia. He was named Lion of Judah by the State of Israel for successfully freeing Soviet Jew Yakov Gluzman. Senator Fowler is currently engaged in an international business and law practice, and serves as Chairman Emeritus of the Board of the Middle East Institute, a non-profit foundation in Washington, D.C. Senator Fowler also serves on the board of directors of Shubert Theaters, the Shubert Foundation and Brandywine Realty Trust. Senator Fowler holds an A.B. in English from Davidson College and a J.D. from Emory University School of Law. Senator Fowler is 77 years old.

Senator Fowler's background and experience in the United States Congress, and the leadership qualities exemplified during and since his tenure in Congress, are attributes that the board believes benefit our overall board operations. In addition, we believe his international business and law experience qualify him to serve on the board.

Randal J. Kirk

Director

Mr. Kirk has been one of our directors since January 2011. Mr. Kirk is the Senior Managing Director and Chief Executive Officer of Third Security, LLC, an investment management firm founded by Mr. Kirk. Additionally, Mr. Kirk founded and became Chairman of the board of directors of New River Pharmaceuticals Inc. (previously traded on Nasdaq prior to its acquisition by Shire plc in 2007) in 1996, and was President and Chief Executive Officer between October 2001 and April 2007. Mr. Kirk began his professional career in the private practice of law. Previously, Mr. Kirk served as a member of the board of directors of Scios, Inc. (previously traded on Nasdaq prior to its acquisition by Johnson & Johnson) between February 2000 and May 2002, and as a member of the board of directors of Clinical Data, Inc. (previously traded on Nasdaq prior to its acquisition by Forest Laboratories, Inc. in April 2011) from September 2002 to April 2011, and was Chairman of the board from December 2004 to April 2011. Mr. Kirk currently serves in a number of additional capacities, including as a member of the board of directors of Halozyme Therapeutics, Inc., since May 2007 and as Chairman of the board of directors of Intrexon Corporation since February 2008 and Chief Executive Officer since April 2009. Mr. Kirk served on the Board of Visitors of Radford University from July 2003 to June 2009, was Rector of the board from September 2006 to September 2008, and has served on the board of directors of the Radford University Foundation, Inc. from September 1998 to May 2011. He served on the Board

of Visitors of the University of Virginia and Affiliated Schools from July 2009 to October 2012, on the Virginia Advisory Council on Revenue Estimates from July 2006 to October 2012, and on the Governor's Economic Development and Jobs Creation Commission from April 2010 to October 2012. Mr. Kirk received a B.A. in business from Radford University and a J.D. from the University of Virginia. Mr. Kirk is 64 years old.

Mr. Kirk has demonstrated an ability to dedicate sufficient time and focus on his duties as a director of Ziopharm. The board believes that Mr. Kirk's extensive experience and long-term record of achievement as an entrepreneur, investor, top executive and board member of numerous leading pharmaceutical and other health care companies qualifies him to serve on the board.

Scott Tarriff

Director

Mr. Tarriff has been one of our directors since September 2015. Mr. Tarriff has served as the Chief Executive Officer and as a member of the Board of Directors of Eagle Pharmaceuticals, Inc. since its inception in January 2007. Prior to joining Eagle, Mr. Tarriff held various executive positions at Par Pharmaceutical Companies, Inc., a publicly-traded developer, manufacturer and marketer of specialty pharmaceuticals, including as President and Chief Executive Officer from September 2003 to September 2006, after joining Par in 1998. Prior to that, Mr. Tarriff held various positions with Bristol-Meyers Squibb, a publicly-traded biopharmaceutical company, including senior director-marketing. Mr. Tarriff has served as a member of the board of directors of Synthetic Biologics, Inc., a publicly-traded biotechnology company, since February 2012 and previously served on the board of directors of Clinical Data, Inc., a publicly-traded pharmaceutical company, from September 2009 until its acquisition by Forest Laboratories, Inc. in April 2011. Mr. Tarriff holds a B.S. in marketing from Pennsylvania State University and an M.B.A. from Rider College. Mr. Tarriff is 58 years old.

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Mr. Tarriff has demonstrated an ability to dedicate sufficient time and focus on his duties as a director of Ziopharm. The board believes that Mr. Tarriff's long-term record of achievement and extensive experience as a board member and senior executive in the pharmaceutical and biotechnology industries, coupled with his extensive expertise in company operations and management, including his knowledge of the clinical development and regulatory process, qualifies him to serve on the board.

Laurence James Neil Cooper, M.D.,
Ph.D.

Chief Executive Officer

Dr. Cooper has served as our Chief Executive Officer since May 2015. Prior to joining us, Dr. Cooper led the Pediatric Cell Therapy service (formally named the BMT program) as a tenured professor at the University of Texas M.D. Anderson Cancer Center, or MD Anderson, where he had worked since 2006. In addition to caring for children, adolescents and young adults undergoing autologous and allogeneic hematopoietic stem-cell transplantation, referred to as HSCT, at MD Anderson, he ran a laboratory translating immunology into clinical practice. His program had multiple investigator-initiated trials that infuse T cells and NK cells to target malignancies. Dr. Cooper also holds an appointment as a Visiting Scientist at MD Anderson and as Adjunct Professor of Pathology & Laboratory Medicine at the Perelman School of Medicine at the University of Pennsylvania. Dr. Cooper obtained his B.A. at Kenyon College in Gambier, Ohio and M.D. and Ph.D. degrees at Case Western Reserve University in Cleveland before training in Pediatric Oncology and Bone Marrow Transplantation at the Fred Hutchinson Cancer Research Center in Seattle. Dr. Cooper is 53 years old.

David M. Mauney, M.D.

*Executive Vice President, Chief
Business Officer and Interim Chief
Operating Officer*

Dr. Mauney has served as our Executive Vice President and Chief Business Officer since September 2017 and as our Interim Chief Operating Officer since November 2017. Prior to joining the Company, he served as managing director of Harvest Capital Strategies LLC, where he had worked since 2015. From 2000 to 2015, Dr. Mauney served as managing director of De Novo Ventures, a health care investment firm he co-founded. Dr. Mauney holds a B.A. from Duke University and an M.D. from Dartmouth Medical School. Dr. Mauney is 50 years old.

Francois Lebel, M.D.

*Executive Vice President, Research
and Development and Chief Medical
Officer*

Dr. Lebel has served as our Executive Vice President, Research and Development and Chief Medical Officer since February 2015. Previously, Dr. Lebel served as our Vice President, Medical Operations from February 2013 until February 2015. From 2011 to July 2012, Dr. Lebel served as Vice President, Research & Development at Baxter Healthcare International, a global healthcare company with expertise in medical devices, pharmaceuticals and biotechnology, and from April 2007 to July 2011, Dr. Lebel served as Vice President, Global Clinical and Medical Affairs for Baxter, Medication Delivery. From October 2004 to September 2006 Dr. Lebel was Vice President, Medical & Scientific Affairs for Medimmune, Inc., a biotechnology company that was acquired by AstraZeneca plc in 2007. Prior to Medimmune, Dr. Lebel gained leadership experience in development, medical affairs, regulatory and pharmacovigilance in various roles of increasing responsibilities at Chiron, Warner-Lambert and

Burroughs Wellcome. Dr. Lebel holds an M.D. and B.S. from the University of Ottawa and is Board Certified in Internal Medicine and an Infectious Diseases specialist trained at McGill University and Harvard Medical School. Dr. Lebel is 66 years old.

Kevin G. Lafond

Sr. Vice President Finance, Chief Accounting Officer and Treasurer

Mr. Lafond has served as our Sr. Vice President Finance, Chief Accounting Officer and Treasurer since June 2013 and is our principal financial and accounting officer. Previously, Mr. Lafond served as our Corporate Controller since he joined us in February 2009 until June 2013. Prior to joining us, Mr. Lafond served as Controller of Helicos Biosciences Corporation, a public life sciences equipment manufacturer, from February 2007 to October 2008. Mr. Lafond holds a bachelor's degree from Plymouth State University, master's degrees in both accounting and taxation from Bentley University and is a Certified Public Accountant. Mr. Lafond is 62 years old.

Section 16(a) Beneficial Ownership Reporting Compliance

Section 16(a) of the Securities Exchange Act of 1934, as amended, or Exchange Act, requires our directors and executive officers, as well as stockholders beneficially owning more than ten percent of the outstanding common stock, to file with the SEC initial reports of ownership and reports of changes in ownership with respect to common stock. All of these reporting persons are required by SEC regulations to furnish us with copies of all reports they file with the SEC pursuant to Section 16(a).

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Based solely on our review of the copies of such forms received by us and written representations of our directors and executive officers received by us, we believe each reporting person filed on a timely basis all of the reports required to be filed pursuant to Section 16(a) in 2017.

INFORMATION REGARDING THE BOARD OF DIRECTORS AND CORPORATE GOVERNANCE

This section provides further information regarding the board of directors and the independence of our directors and describes key corporate governance guidelines and practices that we have adopted.

Independence of the Board of Directors

The board of directors uses the definition of independence established by The Nasdaq Stock Market. Under applicable Nasdaq rules, a director qualifies as an independent director if, in the opinion of the board, he or she does not have a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director. The board has determined that Dr. Murray Brennan, Mr. James A. Cannon, Senator Wyche Fowler, Jr. and Mr. Scott Tarriff are independent directors, as such term is defined in Nasdaq Rule 5605(a)(2). The board previously determined that Dr. Michael Weiser, who resigned from the board of directors in March 2018, was an independent director during the time he served on the board of directors.

Board Leadership Structure

The board of directors has appointed an independent director, Dr. Murray Brennan, to serve as its non-executive Lead Director. The board has elected to separate the Lead Director function from that of the Chief Executive Officer, who serves as our principal executive officer, due to a belief that separating these functions, and empowering an independent director to chair the board meetings, will result in increased board oversight of management activities.

Board Committees

The board of directors has established three standing committees: an audit committee, a compensation committee and a corporate governance and nominating committee. Each committee operates under a charter that has been approved by the board. Current copies of each committee's charter are posted on the Investors Corporate Governance section of our website, www.ziopharm.com. Our website and its contents are not incorporated into this filing.

The current members of the committees are as follows:

	Audit	Compensation	Nominating
Murray Brennan, M.D.*			
James A. Cannon			
Senator Wyche Fowler, Jr., J.D.			
Randal J. Kirk			
Scott Tarriff			

* = Lead Director = Chair = Member
Audit Committee

The current members of the audit committee are Mr. James A. Cannon, who serves as the committee's Chairman, Senator Wyche Fowler, Jr. and Mr. Scott Tarriff. Dr. Michael Weiser previously served on the audit committee until his resignation on March 12, 2018. As set forth in the audit committee charter, the primary responsibility of the audit committee is to oversee our financial reporting processes and internal control system on behalf of the board. In that regard, the audit committee is responsible for, among other things, the appointment, compensation, retention and oversight of the work performed by the independent registered public accounting firm employed by us.

Each member of the audit committee is an independent director, as such term is defined in Nasdaq Rule 5605(a)(2), and meets the criteria for independence set forth in Rule 10A-3(b)(1) under the Exchange Act. The board of directors has also determined that each of the audit committee members is able to read and understand fundamental financial statements and that at least one member of the audit committee has past employment experience in finance or accounting. The board has determined that at least one member of the audit committee, Mr. James A. Cannon, is an audit committee financial expert, as that term is defined in Item 407(d)(5)(ii) of Regulation S-K promulgated under the Exchange Act. Mr. Cannon's relevant experience includes his current service as the Chief Financial Officer of BBDO Worldwide, a position he has held for the past 20 years, and his past service as director of financial operations of the Omnicom Group.

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Compensation Committee

The current members of the compensation committee are Mr. Scott Tarriff, who serves as the committee's Chairman, Dr. Murray Brennan and Mr. James A. Cannon. Dr. Michael Weiser previously served as the Chairman of the compensation committee until his resignation on March 12, 2018. Upon his resignation, the board of directors appointed Mr. Cannon to the compensation committee and appointed Mr. Tarriff as the Chairman. As set forth in the compensation committee charter, the compensation committee reviews our compensation policies and practices and makes recommendations to the board of directors in connection with all compensation matters affecting our executive officers.

Each member of the compensation committee is an independent director, as such term is defined in Nasdaq Rule 5605(a)(2), and meets the criteria for independence set forth in Rule 10A-3(b)(1) under the Exchange Act.

Corporate Governance and Nominating Committee

The current members of the corporate governance and nominating committee are Dr. Murray Brennan, who currently serves as the committee's Chairman, and Senator Wyche Fowler, Jr. Dr. Michael Weiser previously served on the corporate governance and nominating committee until his resignation on March 12, 2018. As set forth in the corporate governance and nominating committee charter, the primary responsibility of the corporate governance and nominating committee is to consider and make recommendations to the board of directors concerning the appropriate size, function and needs of the board and its committees. In that regard, the corporate governance and nominating committee is, among other things, responsible for establishing criteria for membership on board, recruiting and recommending candidates to fill newly created or vacant positions on the board and reviewing any candidates recommended by stockholders. In addition, the corporate governance and nominating committee evaluates and assesses the performance of the board as a whole and its committees.

Each member of the corporate governance and nominating committee is an independent director, as such term is defined in Nasdaq Rule 5605(a)(2), and meets the criteria for independence set forth in Rule 10A-3(b)(1) under the Exchange Act.

Risk Management and Oversight

One of the board's key functions is informed oversight of the Company's risk management process. The board does not have a standing risk management committee, but rather administers this oversight function directly through the board as a whole, as well as through various Board standing committees that address risks inherent in their respective areas of oversight. In particular, our board is responsible for monitoring and assessing strategic risk exposure, including a determination of the nature and level of risk appropriate for the Company. Our audit committee has the responsibility to consider and discuss our major financial risk exposures and the steps our management has taken to monitor and control these exposures, including guidelines and policies to govern the process by which risk assessment and management is undertaken. Our corporate governance and nominating committee monitors the effectiveness of our corporate governance guidelines. Our compensation committee assesses and monitors whether any of our compensation policies and programs has the potential to encourage excessive risk-taking. The Board has delegated to the Board's lead independent director the responsibility of coordinating between the Board and management with regard to the determination and implementation of responses to any problematic risk management issues.

Compensation Committee Interlocks and Insider Participation

During 2017, the members of the compensation committee were Mr. Scott Tarriff, Dr. Murray Brennan and Dr. Michael Weiser. None of them has ever been an officer or employee of the Company or any subsidiary of ours and no member of the compensation committee had any relationship with us during 2017 requiring disclosure under Item 404 of Regulation S-K of the SEC.

None of our executive officers has served as a director or member of the compensation committee (or other committee serving an equivalent function) of any other entity that has an executive officer serving as a member of our board of directors or our compensation committee.

Code of Ethics and Business Conduct

The board of directors adopted a Code of Ethics and Business Conduct to be applicable to all officers, directors and employees. The Code of Ethics and Business Conduct is intended to be designed to deter wrong-doing and promote honest and ethical behavior, full, fair, timely, accurate and understandable disclosure, and compliance with applicable laws. In addition to provisions that are applicable to officers, directors and employees generally, the Code of Ethics and Business Conduct contains provisions that are specifically applicable to our Chief Executive Officer and senior financial officer(s). The Code of Ethics and Business Conduct is available on our website at www.ziopharm.com and a copy may be obtained without charge upon written request to our Legal Affairs department at our principal executive offices at One First Avenue, Parris Building 34, Navy Yard Plaza, Third Floor, Boston, Massachusetts 02129. Our website and its contents are not incorporated into this filing.

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Item 11. Executive Compensation

EXECUTIVE COMPENSATION

Compensation Discussion and Analysis

Overview

This Compensation Discussion and Analysis explains our executive compensation philosophy and objectives, programs and practices, compensation setting process and the 2017 compensation of our named executive officers.

For 2017, our named executive officers were:

Dr. Laurence James Neil Cooper, our Chief Executive Officer

Dr. David Mauney, our Executive Vice President, Chief Business Officer and Interim Chief Operating Officer⁽¹⁾

Dr. Francois Lebel, our Executive Vice President, Research and Development and Chief Medical Officer

Kevin G. Lafond, our Senior Vice President Finance, Chief Accounting Officer and Treasurer

Caesar J. Belbel, our former Executive Vice President, Chief Legal Officer and Secretary⁽²⁾

⁽¹⁾ Dr. Mauney joined us on September 28, 2017.

⁽²⁾ Mr. Belbel's employment with us terminated effective February 15, 2018.

Executive Summary Key Objectives and Compensation Elements

We believe that our executive compensation programs should:

- (i) be tied to overall Company performance;
- (ii) reflect each executive's level of responsibility, performance and contributions;
- (iii) include a significant equity component to ensure alignment with our stockholders; and

(iv) provide fully competitive total compensation opportunities, consistent with our performance, that allow us to attract, retain and motivate talented employees, including our named executive officers.

We believe that by structuring the executive compensation program so that a significant portion of each of our named executive officers' pay is at risk, including a significant equity-based component, we can best ensure our named executive officers are incentivized to maximize our performance and increase value for our stockholders. To this end, our program is comprised of three primary elements:

Compensation

Element	Fixed or Variable	Description
Base Salary	Fixed	To attract and retain executives by offering fixed compensation that is competitive with market opportunities and that recognizes each executive's position, role, responsibility and experience.
Annual Performance Bonus	Variable	To motivate and reward the achievement of our annual performance, including objectives related to our strategic development, research and clinical development programs and stockholder return.
Equity Awards	Variable	To align executives' interests with the interests of stockholders through equity-based compensation and promote the long-term retention of our executives and key management personnel.

Our executive compensation program places a significant percentage of our executives' target pay at risk and ties to achievement of our corporate performance goals and/or is dependent upon our stock price performance.

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* Excludes Dr. Mauney who joined us in late September 2017 and received an inducement equity award at the time of his hire.

2017 Company Performance Highlights

The highlights of our performance for 2017 include:

In January 2017, we and Intrexon Corporation, or Intrexon, announced the signing of a Cooperative Research and Development Agreement with the National Cancer Institute for the development of adoptive cell transfer-based immunotherapies genetically modified using the *Sleeping Beauty* transposon/transposase system to express T-cell receptors for the treatment of solid tumors.

In January 2017, we announced treating the first patient with genetically modified CAR⁺ T cells manufactured in two weeks using the non-viral *Sleeping Beauty* platform.

In June 2017, we presented data showing median overall survival of 12.5 months at 9.2 months mean follow-up time for patients treated with 20 mg of veledimex in our phase 1 study of Ad-RTS-hIL-12 plus veledimex in patients with recurrent or progressive glioblastoma, or rGBM, at the annual meeting of the American Society of Clinical Oncology.

In June 2017, we announced the initiation of enrollment in the stereotactic arm of our Phase 1 multicenter study of Ad-RTS-hIL-12 plus veledimex, a gene therapy for controlled expression of IL-12, in patients with rGBM.

In October 2017, we announced that the first patient had been dosed in our new Phase 1 Study of Ad-RTS-hIL-12 plus veledimex for the treatment of pediatric brain tumors.

In November 2017, we delivered four presentations at the 22nd Annual Meeting and Education Day of the Society for Neuro-Oncology showing that Controlled IL-12 gene therapy turns cold tumors hot, decreased the size of brain tumor lesions in several patients based on MRI evidence and showed that median overall survival for patients with rGBM treated with Ad-RTS-hIL-12 plus veledimex was maintained at 12.5 months in 20mg cohort with longer follow-up time.

In November 2017, we made four presentations at the 59th American Society of Hematology (ASH) Annual Meeting: clinical data from our first- and second-generation trials showed *Sleeping Beauty* modified CAR⁺ T cells had demonstrated safety, tolerability, disease response, long-term survival, and persistence; preclinical data showed that CAR⁺ T cells co-expressing membrane-bound interleukin-15 (mbIL15) and a control switch manufactured within two days under point-of-care do not require *ex vivo* activation or propagation to

achieve anti-tumor effects and prolonged T-cell survival.

Compensation Highlights

A substantial portion of our executive pay is structured to be at risk and dependent upon our performance, in the form of performance-based bonuses and equity incentive awards. For 2017, approximately 70% of our Chief Executive Officer's actual total compensation was paid in the form of such at-risk compensation, as reported in our Summary Compensation Table.

Our annual bonuses are based on two variously-weighted corporate goals related to key operational objectives and stockholder return. For 2017, because we met a substantial portion of our operational objectives, our named executive officers were, accordingly, awarded 87.5% of their target bonuses.

Our compensation committee retains an outside compensation consultant for guidance in making executive compensation decisions, annually evaluates our compensation against market practices and develops a peer group of companies each year who are comparable to our company and appropriate reference points in evaluating the appropriateness of our executive compensation program.

Our severance payments are reasonable in amount and we do not provide our named executive officers with any 280G tax gross ups in connection with a change in control.

Stockholder Advisory Vote

At the 2017 annual meeting of stockholders, approximately 84.9% of the votes cast on the say-on-pay vote were in favor of our named executive officer compensation as disclosed in our 2017 proxy statement and, as a result, our named executive officer compensation was approved. The compensation committee carefully considered the final vote results as well as the proxy advisory firm analyses of our executive pay program to evaluate whether changes to the program were advisable for 2017. The compensation committee did not make any specific changes to our 2017 executive compensation policies and decisions as a result of the vote. We aim to continue to maintain clear and concise executive compensation disclosures to promote transparency and understanding of our executive compensation programs.

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Role of our Compensation Committee, Management and Consultant

Compensation Committee

Our compensation committee is responsible for reviewing, evaluating, approving, administering and interpreting our executive compensation and benefits policies, programs and plans, including our equity compensation plans. In particular, with respect to the compensation of our named executive officers, our compensation committee is responsible for reviewing and recommending to the outside, independent and non-employee members of the board of directors the compensation levels and performance goals relevant to the compensation of these officers, and for evaluating the officers' performance in light of those goals and objectives. The outside, independent and non-employee members of the board of directors approved the compensation committee's recommendations for the 2017 compensation of our named executive officers.

Management

Our human resources, finance and legal departments work with our Chief Executive Officer to design and develop new executive compensation programs, to recommend changes to existing compensation programs, to recommend financial and other performance targets to be achieved under those programs, to prepare analyses of financial data, to prepare peer group data comparisons and other briefing materials for consideration by the compensation committee and ultimately, to implement the decisions of the compensation committee.

The Chief Executive Officer recommends to the compensation committee for its discussion and ultimately, approval, proposed corporate performance and strategic goals and their relative weighting for the upcoming fiscal year, and provides input on the level of attainment of the prior year's strategic goals, for purposes of determining awards under the annual performance bonus plan for all our executives, including the Chief Executive Officer. For executives other than the Chief Executive Officer, the compensation committee considers the individual performance of the executives, as assessed by the Chief Executive Officer, and the compensation recommendations submitted to the compensation committee by the Chief Executive Officer. Our Chief Executive Officer and other members of management generally attend our compensation committee meetings for a portion of the meeting. No executive officer was present or voted in the compensation committee or the board of directors' final determinations regarding the amount of any component of his own 2017 compensation package.

Consultant

In the fourth quarter of 2016 and again during the fourth quarter of 2017, the compensation committee re-engaged W.T Haigh and Company, or Haigh, as an independent compensation consultant. The compensation committee originally retained Haigh in 2012 after considering a number of other national compensation consulting firms because of Haigh's strong reputation and record in advising similarly situated biopharmaceutical and biotechnology companies in the Greater Boston/Cambridge, Massachusetts area. Haigh is engaged by and reports directly to the compensation committee.

As part of its duties, Haigh provided the compensation committee with the following services:

completed a competitive analysis of our executive compensation program;

prepared a competitive analysis of the board of directors' compensation program, including observations and recommendations;

reviewed and updated our peer group for use in determining executive compensation; and

reviewed our 2017 proxy statement and CD&A.

During 2017, the compensation committee conducted a performance and independence assessment of Haigh with respect to Haigh's role in recommending or determining the amount and form of executive compensation during the fiscal year ended December 31, 2017, and to determine whether it would continue to serve as the compensation committee's independent advisor for 2018. Other than providing limited advice to our management regarding competitive salary data and broad-based stock plan share reserve modeling, Haigh did not provide any other services to us in 2017. The compensation committee also considered that the individual representative of Haigh who works directly with the compensation committee has no other business relationships with the board, management or the Company, Haigh's own policies on ethics, stock ownership and conflicts of interest, and the total revenue that Haigh received from us in 2017 and how this amount compared to Haigh's 2017 total gross revenues. As a result, the compensation committee concluded that Haigh's services to the compensation committee during 2017 did not raise any conflict of interest.

Peer Group, Survey Sources and Market Benchmarking

Peer Group

In November 2016, in consultation with Haigh, the compensation committee reviewed the list of companies that should be included in the peer group used as a reference point for setting base salary and target annual incentive recommendations for 2017, which we refer to as the Early 2017 peer group. This Early 2017 peer group consisted of U.S.-headquartered, public biopharmaceutical companies that were similar in size and development stage to us based upon the following selection criteria:

companies with 20 to 100 employees with a median of 67 employees;

companies with market values between \$200 million to \$2 billion with a median of \$509.9 million;

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companies with R&D expense greater than \$50 million annually with a median of \$64.4 million; and

companies with accumulated deficits from operations between \$100 million and \$500 million with a median of \$486.2 million.

The compensation committee determined that the foregoing selection criteria were appropriate in selecting the Early 2017 peer group because at such time we had approximately 28 employees, a market value of approximately \$1.0 billion, an R&D expense forecast of approximately \$164.5 million and accumulated deficits from operations of approximately \$635.9 million. The following 20 companies were approved by the compensation committee as the Early 2017 peer group for purposes of making its recommendations for the 2017 base salary and target annual incentive compensation:

Acceleron Pharma Inc.	Geron Corporation
Achillion Pharmaceuticals, Inc.	Heron Therapeutics, Inc.
Agenus Inc.	Idera Pharmaceuticals, Inc.
Akebia Therapeutics, Inc.	Intra-Cellular Therapies, Inc.
Biocryst Pharmaceuticals, Inc.	Lexicon Pharmaceuticals, Inc.
Celldex Therapeutics, Inc.	Mirati Therapeutics, Inc.
Concert Pharmaceuticals, Inc.	Molecular Templates, Inc.
Curis, Inc.	Portola Pharmaceuticals, Inc.
Dicerna Pharmaceuticals, Inc.	Sage Therapeutics, Inc.
Flexion Therapeutics, Inc.	Spark Therapeutics, Inc.

In November 2017, in consultation with Haigh, the compensation committee reevaluated the list of companies that should be included in the peer group used as a reference point in determining the levels of December 2017 equity compensation grants, which we refer to as the Late 2017 peer group. Similar to the Early 2017 peer group, the Late 2017 peer group considered many of the same scope measures, location and stage of development characteristics as listed above. The selected Late 2017 peer group companies were chosen upon the following selection criteria:

companies with 20 to 100 employees with a median of 74 employees;

companies with market values between \$200 million to \$2 billion with a median of \$635.6 million;

companies with R&D expense greater than \$50 million annually with a median of \$59.1 million; and

companies with accumulated deficits from operations between \$100 million and \$500 million with a median of \$391.4 million.

The compensation committee determined that the foregoing selection criteria were appropriate in selecting the Late 2017 peer group because at such time we had approximately 40 employees, a market value of approximately \$917.0 million, an R&D expense forecast of approximately \$41.2 million and accumulated deficits from operations of approximately \$686.5 million. The following 18 companies were approved by the compensation committee as the Late 2017 peer group for purposes of determining December 2017 equity grants:

Accelaron Pharma Inc.
Achillion Pharmaceuticals, Inc.
Akebia Therapeutics, Inc.
Biocryst Pharmaceuticals, Inc
Blueprint Medicines Corporation
Calithera Biosciences, Inc.
Celldex Therapeutics, Inc.
Concert Pharmaceuticals, Inc.
Curis, Inc.

CytomX Therapeutics, Inc.
Editas Medicine, Inc.
Geron Corporation
Heron Therapeutics, Inc.
Idera Pharmaceuticals, Inc.
Selecta Biosciences, Inc.
Syros Pharmaceuticals, Inc.
Xencor, Inc.
Zogenix, Inc.

Other Survey Sources

In making its decisions for recommended 2017 compensation levels, the compensation committee also reviewed Radford survey data as an additional market frame of reference.

2017 Compensation Decisions

Base Salary

Our compensation committee generally reviews base salaries in the fourth quarter of the preceding fiscal year with adjusted salaries becoming effective January 1 of the following fiscal year. As a general approach, the compensation committee references approximately the 50th percentile of our peer group in setting base salary compensation. In addition to considering the peer group and/or other survey market data, the compensation committee also considers, among other factors, the Company's performance; stock price appreciation; individual performance; experience; and breadth of each position's role.

In December 2016, our compensation committee recommended for approval, and the board of directors approved, 2017 base salaries for our named executive officers, as described in the table below. In making its determination, the compensation committee considered the Chief Executive Officer's review of and recommendation for Dr. Lebel and Messrs. Belbel and Lafond as well as a competitive analysis

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prepared by Haigh for all executive officers. The compensation committee determined Dr. Mauney's base salary as the result of negotiations in connection with his recruitment in September 2017. The compensation committee believed that the 2017 base salary levels set forth below were appropriate in light of our performance during fiscal year 2016 and in order to maintain or make our named executive officers' base salaries competitive versus mid-market salary levels of the early 2017 peer group. Based on these considerations, the compensation committee determined that no increase to the base salaries of Dr. Cooper or Mr. Belbel were necessary, in part because their base salary levels were already at or above mid-market levels. The compensation committee determined to increase Mr. Lafond's 2017 base salary by 12.2% and Dr. Lebel's 2017 base salary by 3.0% in order to position their respective salaries in line with the mid-market salary levels of the early 2017 peer group and Radford survey data.

Executive Officer	2016 Base Salary	2017 Base Salary	% Increase
Dr. Laurence James Neil Cooper	\$ 500,000	\$ 500,000	N/A
Dr. David Mauney ⁽¹⁾	N/A	\$ 400,000	N/A
Dr. Francois Lebel	\$ 410,000	\$ 422,300	3.0%
Kevin G. Lafond	\$ 245,000	\$ 275,000	12.2%
Caesar J. Belbel	\$ 375,000	\$ 375,000	N/A

⁽¹⁾ Represents Dr. Mauney's annual base salary rate. Dr. Mauney's actual 2017 base salary was pro-rated based on his September 28, 2017 hire date.

Annual Incentive Compensation

An important component of our total compensation program is the annual cash incentive, which is based on the achievement of annual company performance objectives, stock price appreciation as measured by the absolute increase in market capitalization on a year-over-year basis, and individual executive performance. Our compensation committee recognizes the important role that variable cash compensation plays in attracting and retaining executives, as well as focusing executives (and all other employees) on the achievement of key annual financial, research, clinical, business development and individual goals.

2017 Annual Performance Bonus Target Levels

The compensation committee generally provides annual cash incentive compensation at levels well above the 50th percentile of our peer group in order to provide additional incentives for our executives to achieve our short-term corporate goals and put a greater percentage of their target cash compensation at risk and tied to achievement of our performance goals. This also serves as an important incentive and retention purpose in the highly competitive Greater Boston/Cambridge, Massachusetts area and national and international biopharmaceutical and biotechnology employment marketplace within which we compete for top executive talent. The 2017 target bonus amounts for Drs. Cooper and Lebel and Mr. Belbel, as a percentage of base salary, remained unchanged from 2016 levels as the compensation committee determined that such levels continued to be appropriate to provide adequate performance incentives and were consistent with external benchmarks and reflective of the executive's level of responsibility for attaining our corporate performance objectives. Mr. Lafond's target bonus was increased from 30% of his base salary to 35% of his base salary, consistent with internal and external benchmarks. In connection with his commencement of employment in September 2017 and consistent with internal and external benchmarks, Dr. Mauney's target bonus was set at 35% of his base salary.

2017 Annual Performance Objectives

The annual incentive bonus plan for our named executive officers and our other senior executives was determined by variously weighted components. Our 2017 performance objectives, which we refer to collectively as the Objective Component, included regulatory goals relating to our pivotal trial programs, progress across several of our ongoing and planned clinical trials and studies, advancement of our pre-clinical programs and the success of our fundraising efforts. In addition to these objective performance measures, the board's discretionary evaluation of our executive officer's performance was included as a significant component of the bonus plan. The compensation committee believes that the performance objectives reviewed under the Objective Component were appropriate objectives for 2017 as the core focus for the year was the advancement of both our pre-clinical and clinical immuno-oncology programs, while giving the board of directors the discretion to evaluate our executive officer's performance based on changes in our business.

For 2017, the compensation committee also considered our stock price performance as compared to our peer group, which we refer to as the Stockholder Return Component, as a modifying factor of our performance. The compensation committee believes this is an appropriate measure to use as a modifier to our Objective Component as it reinforces alignment with stockholders and ensures that creating stockholder value significantly impacts annual variable compensation.

The year-end cash bonus award for executives was developed by determining the percent achievement versus the Objective Component. We then used the Stockholder Return Component to modify the percent achievement of the Objective Component. This approach yielded overall performance versus target at a level of 87.5% for 2017.

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The compensation committee determined that 2017 annual incentive payout levels of 87.5% of the targeted cash bonus were appropriate for each of Drs. Cooper, Lebel and Mauney (prorated for his start date) and Messrs. Belbel and Lafond as a result of our agreement on protocol design for a pivotal trial following discussions with regulatory agencies in the United States and Europe, advancements in our pediatric trial using our Ad-RTS-IL-12 + vedolimex platform, progress in our CD19 and CD33 clinical studies, the success of our early pre-clinical efforts in TCR and the completion of our financing in May 2017. The compensation committee also reviewed our stock price performance during 2017. Finally, the compensation committee considered that certain programs and strategic initiatives were poised to contribute value to the Company in 2018.

The target short-term incentive compensation amounts for 2017, expressed as a percentage of 2017 base salaries, for each of our named executive officers, are set forth in the following table. In addition, the compensation committee recommended, and the board of directors approved, the following cash bonuses for 2017 performance:

Name	2017 Target Bonus		2017 Actual Bonus		
	% Salary	\$ Amount	% Salary	\$ Amount	% Target
Dr. Laurence James Neil Cooper	200%	\$ 1,000,000	175.0%	\$ 875,000	87.5%
Dr. David Mauney ⁽¹⁾					