

HEARTLAND PAYMENT SYSTEMS INC
Form DEF 14A
March 21, 2007

**UNITED STATES
SECURITIES EXCHANGE COMMISSION
Washington, DC 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**

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 Rule
14a-12

**HEARTLAND PAYMENT 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:

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.. 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:

**HEARTLAND PAYMENT SYSTEMS, INC.
90 NASSAU STREET
PRINCETON, NJ 08542**

**NOTICE OF 2007 ANNUAL MEETING OF STOCKHOLDERS
TO BE HELD ON MAY 3, 2007**

The Board of Directors of Heartland Payment Systems, Inc. (the "Company") hereby gives notice that the 2007 Annual Meeting of Stockholders will be held at the Nassau Inn, 10 Palmer Square, Princeton, NJ 08540, on May 3, 2007 at 9:30 a.m. (local time), for the following purposes:

1. To elect eight Directors to the Company's Board of Directors for terms expiring at the 2008 Annual Meeting, or until their successors are duly elected and qualified as provided in the Company's By-Laws; and
2. To transact any other business that may properly come before the Annual Meeting or any adjournments or postponements thereof.

This notice of meeting, the Company's Proxy Statement and the accompanying proxy card, and the Company's Annual Report, including the Company's Form 10-K, were first mailed on or about April 3, 2007. Stockholders of record at the close of business on March 16, 2007 are entitled to notice of and vote at the meeting and any adjournments or postponements thereof. If you attend the meeting you may vote in person if you wish, even though you have previously returned your proxy.

By Order of the Board of Directors

/s/ Charles H.N. Kallenbach

Charles H.N. Kallenbach
General Counsel, Chief Legal Officer and
Secretary

Princeton, New Jersey
Date: April 3, 2007

IMPORTANT: WHETHER OR NOT YOU EXPECT TO ATTEND THE MEETING PLEASE COMPLETE, DATE AND SIGN THE ENCLOSED PROXY CARD AND MAIL IT PROMPTLY IN THE ENCLOSED ENVELOPE. THIS WILL ENSURE REPRESENTATION OF YOUR SHARES AT THE MEETING.

**HEARTLAND PAYMENT SYSTEMS, INC.
90 NASSAU STREET
PRINCETON, NJ 08542**

PROXY STATEMENT

2007 Annual Meeting of Stockholders
To Be Held On May 3, 2007

This Proxy Statement and the accompanying Notice of Annual Meeting of Stockholders are being furnished in connection with the solicitation by the Board of Directors of Heartland Payment Systems, Inc., a Delaware corporation (the "Company"), of proxies for use at the 2007 Annual Meeting of Stockholders (the "Annual Meeting") of the Company to be held on May 3, 2007, at 9:30 a.m., Eastern Time, at the Nassau Inn, 10 Palmer Square, Princeton, New Jersey 08540, and at any adjournments thereof. This Proxy Statement and the enclosed proxy card and the Company's Annual Report to Stockholders, including the Company's Form 10-K, for the fiscal year ended December 31, 2006 are first being sent to stockholders on or about April 3, 2007.

The close of business on March 16, 2007 has been selected as the record date (the "Record Date") for determining the holders of outstanding shares of the Company's common stock, par value \$0.001 per share (the "Common Stock"), entitled to receive notice of and vote at the Annual Meeting. On the Record Date, there were approximately 37,658,804 shares of Common Stock outstanding and approximately 64 holders of record. Each holder of record is entitled to one vote at the Annual Meeting for each share of Common Stock held by such stockholder on the Record Date. No other class of securities will be entitled to vote at the Annual Meeting. There are no cumulative voting rights.

The presence in person or by properly executed proxy of the record holders of a majority of the outstanding shares of Common Stock will constitute a quorum at the Annual Meeting. Elections of Directors will be determined by a plurality vote of all shares present in person or by properly executed proxy and voting at the Annual Meeting.

Unless proxies have been previously revoked, all shares represented by properly executed proxies will be voted at the Annual Meeting in accordance with the directions given on such proxies. Any person giving a proxy has the power to revoke it, in writing delivered to the Secretary of the Company at the address given above, at any time prior to its exercise. If no direction is given, a properly executed proxy will be voted FOR the election of the persons named under "Election of Directors." The Board of Directors does not anticipate that any other matters will be brought before the Annual Meeting. If, however, other matters are properly presented, the persons named in the proxy will have discretion, to the extent allowed by Delaware law, to vote in accordance with their own judgment on such matters. Abstentions and broker non-votes will not be voted, but they will be counted for purposes of determining whether there is a quorum.

The cost of proxy solicitation, including the cost of reimbursing brokerage houses and other custodians, nominees, and fiduciaries for forwarding proxies and proxy statements to beneficial owners of the common stock, will be paid by the Company.

ELECTION OF DIRECTORS

General

Eight individuals, seven of whom are presently members of our Board of Directors, have been nominated for election as our Directors until the next annual meeting and until their respective successors are elected and qualified. The persons named in the proxy, who have been designated by our management, intend, unless otherwise instructed on the proxy card, to vote for the election to the Board of Directors of the persons named below. If any nominee should become unavailable to serve, the proxy may be voted for the election of another person designated by the Board of Directors. The Board of Directors has no reason to believe any of the persons named will be unable to serve if elected.

Vote Required

The affirmative vote of the holders of a plurality of the shares of common stock voting at the Annual Meeting is necessary for the election of Directors. Any shares not voted (by abstention, broker non-vote, or otherwise) have no impact on the vote.

Board Recommendation

The Board of Directors recommends that stockholders vote FOR the nominees listed below.

Information Concerning Directors and Nominees

Information regarding each nominee for Director is set forth in the following table:

Name	Age	Director Since	Position	Term Expires on the Annual Meeting Held In The Year
Robert O. Carr	61	2000	Chairman and Chief Executive Officer	2008
Scott L. Bok	47	2001	Director	2008
Mitchell L. Hollin	44	2001	Director	2008
Robert H. Niehaus	51	2001	Director	2008
Marc J. Ostro, Ph.D	57	2002	Director	2008
Jonathan J. Palmer	63	2003	Director	2008
George F. Raymond	69	2004	Director	2008
Richard W. Vague	51	--	Director	2008

Robert O. Carr, age 61, has served as Chairman of our Board of Directors and as our Chief Executive Officer since our inception in October 2000. Mr. Carr had been Chairman of the Members' Committee and Chief Executive Officer of our predecessor, Heartland Payment Systems LLC, from March 1997 to October 2000 when the merger of Heartland Payment Systems LLC into our company became effective. Mr. Carr co-founded Heartland Payment Systems LLC with Heartland Bank in March 1997. Prior to founding Heartland, Mr. Carr worked in the payments and software development industries for 25 years. Mr. Carr received a B.S. and M.S. in Mathematics and Computer

Science from the University of Illinois.

Scott L. Bok, age 47, has served as one of our Directors since October 2001. Mr. Bok has served as the U.S. President of Greenhill & Co., Inc., an investment banking firm, since January 2004 and as a member of Greenhill & Co.'s Management Committee since its formation in January 2004. Mr. Bok is also a member of the Investment Committee of Greenhill Capital Partners, LLC. In addition, Mr. Bok has been a director of Greenhill & Co., Inc. since March 2004. From 2001 until the formation of Greenhill & Co.'s Management Committee, Mr. Bok participated on the two-person administrative committee responsible for managing Greenhill's operations. Mr. Bok

joined Greenhill & Co. as a Managing Director in February 1997. Before joining Greenhill & Co., Mr. Bok was a Managing Director in the Mergers, Acquisitions and Restructuring department of Morgan Stanley & Co., where he worked from 1986 to 1997. From 1984 to 1986, Mr. Bok practiced law in New York with Wachtell, Lipton, Rosen & Katz. Mr. Bok is a member of the board of directors of Republic Group Companies, Inc., various private companies and charitable organizations. Mr. Bok received a B.S. in Economics from the University of Pennsylvania's Wharton School and a J.D. from the University of Pennsylvania Law School.

Mitchell L. Hollin, age 44, has served as one of our Directors since October 2001. Mr. Hollin is a Partner of LLR Capital, L.P., which is the general partner of LLR Equity Partners, L.P., an independent private equity firm, which he joined in August 2000. From 1994 until joining LLR Capital, L.P., Mr. Hollin was a founder and Managing Director of Advanta Partners LP, a private equity firm affiliated with Advanta Corporation. Prior to his involvement with Advanta Partners LP, Mr. Hollin was a Vice President at Cedar Point Partners LP, a middle market buyout firm and before that an Associate at Patricof & Co. Ventures, Inc., an international venture capital firm. Mr. Hollin is a member of the board of directors of various private companies. Mr. Hollin received a B.S. in Economics and an M.B.A. from the Wharton School of the University of Pennsylvania.

Robert H. Niehaus, age 51, has served as one of our Directors since October 2001. Mr. Niehaus is a Managing Director of Greenhill & Co., Inc. and serves as the Chairman and a Senior Member of GCP 2000, LLC and the Chairman and a Senior Member of Greenhill Capital Partners, LLC, which control the general partners of Greenhill Capital Partners. Mr. Niehaus has been a member of Greenhill & Co.'s Management Committee since its formation in January 2004. Mr. Niehaus joined Greenhill & Co. in January 2000 as a Managing Director to begin the formation of Greenhill Capital Partners. Prior to joining Greenhill & Co., Mr. Niehaus spent 17 years at Morgan Stanley & Co., where he was a Managing Director in the merchant banking department from 1990 to 1999. Mr. Niehaus was vice chairman and a director of the Morgan Stanley Leveraged Equity Fund II, L.P., a private equity investment fund, from 1992 to 1999, and was Vice Chairman and a Director of Morgan Stanley Capital Partners III, L.P., a private equity fund, from 1994 to 1999. Mr. Niehaus was also the Chief Operating Officer of Morgan Stanley's merchant banking department from 1996 to 1998. Mr. Niehaus is a director of American Italian Pasta Company, a producer and marketer of dry pasta, Exco Holdings, Inc., an oil and gas company, Global Signal Inc., a company that owns and manages wireless communications towers and other communications sites, and various private companies. Mr. Niehaus received a B.A. in International Affairs from the Woodrow Wilson School at Princeton University and an M.B.A. from the Harvard Business School.

Marc J. Ostro, Ph.D., age 57, has served as one of our Directors since October 2002. Dr. Ostro has been a partner at TL Ventures, L.P., a Pennsylvania-based venture capital firm, since January 2002. Immediately prior to that, Dr. Ostro was a private consultant to the biotechnology industry since May 2000. From November 1997 to May 2000, he was Senior Managing Director and Group Leader for KPMG Life Science Corporate Finance (Mergers and Acquisitions). In 1981, Dr. Ostro co-founded The Liposome Company, a biotechnology company. Dr. Ostro received a B.S. in Biology from Lehigh University, a Ph.D. in Biochemistry from Syracuse University, and was a Postdoctoral Fellow and Assistant Professor at the University of Illinois Medical School.

Jonathan J. Palmer, age 63, has served as one of our Directors since November 2003. Since November 2005, Mr. Palmer has served as President and Chief Executive Officer of FSV Payment Systems, a leading prepaid debt issuer and processor. From 1999 to October 2003, Mr. Palmer served as President and Chief Executive Officer of Vital Processing Services. From 1996 to 1999, he served as President and CEO of Wellspring Resources, an outsourced benefits administrator. From 1990 to 1996, Mr. Palmer was the Chief Retail Banking and Technology Executive at Barnett Banks, where he created Barnett Technologies, an outsourced services firm offering a wide range of back office functions for banks. Prior to joining Barnett Banks, he was an Executive Vice President with Shearson Lehman Brothers, and held a number of roles at Fidelity Bank in Philadelphia, succeeding to Vice Chairman in the late 1980s. Mr. Palmer received a B.S. in Applied Mathematics from LaSalle University, and an M.B.A. from the Wharton School of the University of Pennsylvania.

George F. Raymond, age 69, has served as one of our Directors since March 2004. Mr. Raymond has served as President of Buckland Corporation, a consulting company to the information technology industry, since 1989. Previously, Mr. Raymond was Chief Executive Officer of Automatic Business Centers, Inc., a payroll processing company he founded in 1972 and sold to Automatic Data Processing Corporation in 1989. Mr. Raymond is a director of BMC Software, Inc., a provider of business management software, Analytical Graphics, Inc., a privately

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held software solutions provider, and NationsHealth, a health care provider. Mr. Raymond received a B.B.A. in Accounting from the University of Massachusetts and qualified as a C.P.A. in Pennsylvania.

Richard W. Vague, age 51, is being proposed as a Director in this Schedule 14A Proxy Statement. Mr. Vague has served as the Chief Executive Officer of Barclays Bank Delaware, a financial institution and credit card issuer, since December 2004. Previously, Mr. Vague was Chief Executive Officer of Juniper Financial, a direct consumer credit card bank, since he co-founded that company in 2000. From 1985 to 2000, Mr. Vague was the co-founder, Chairman and Chief Executive Officer of First USA, and Chairman of Paymentech, the merchant processing subsidiary of First USA. In 1997, Bank One acquired First USA. Mr. Vague serves as a Director of Barclays Bank Delaware. Mr. Vague received a B.S. in communication from the University of Texas at Austin.

There are no family relationships among any of the Company's directors or executive officers.

Information Concerning the Board of Directors and Its Committees

Under our amended and restated certificate of incorporation, the Board of Directors determines the number of directors on the Board. We currently have seven directors and the Board of Directors authorized an increase in the number of members of the Board of Directors to eight. The Board of Directors held four meetings during the fiscal year ended December 31, 2006. Each of the directors attended at least 75% of the aggregate number of meetings of the Board of Directors and relevant committees held during fiscal year 2006. It is our policy to encourage directors to attend our annual meetings of stockholders. For 2006, Robert O. Carr attended the annual meeting of stockholders. No other directors attended the 2006 annual meeting of stockholders.

The Board of Directors has determined that the following directors are "independent" under current New York Stock Exchange ("NYSE") rules: Scott L. Bok, Mitchell L. Hollin, Robert H. Niehaus, Marc J. Ostro, Ph.D., Jonathan J. Palmer and George F. Raymond. To be considered independent our Directors must meet the bright-line independence standards under the listing standards of the NYSE, and the Board of Directors must affirmatively determine that the Director otherwise has no material relationship with us, directly, or as an officer, shareowner or partner of an organization that has a relationship with us. Dr. Ostro serves as a trustee of six irrevocable trusts for the benefit of the children of Mr. Carr and his wife. The Board of Directors believes that Dr. Ostro's position as trustee of these trusts is immaterial and does not effect his independence under the NYSE rules. Robert O. Carr, serves as Chairman at meetings of the Board of Directors. The Chairman of our Nominating and Corporate Governance Committee, Dr. Ostro, presides over executive sessions of our non-management Directors. During fiscal year 2006, three executive sessions of our non-management Directors were held. The Board of Directors has standing Audit, Compensation and Nominating/Corporate Governance Committees.

For additional information on our corporate governance, including the charters approved by the Board of Directors for the Audit Committee, the Compensation Committee and the Nominating/Corporate Governance Committee, the Code of Business Conduct and Ethics and the Corporate Governance Guidelines, please visit our investor relations website at www.heartlandpaymentsystems.com. Printed copies of this information may be obtained by requesting copies from our Corporate Secretary, Heartland Payment Systems, Inc., 90 Nassau Street, Princeton, New Jersey 08542.

Audit Committee. Our Audit Committee is solely responsible for the appointment of and reviewing fee arrangements with our independent accountants, and approving any non-audit services by our independent accountants. (See "Principal Accountant Fees and Services"). Our Audit Committee reviews and monitors our internal accounting procedures and reviews the scope and results of the annual audit and other services provided by our independent accountants. Our Audit Committee currently consists of Messrs. Palmer and Raymond and Dr. Ostro, each of whom is an independent director under current NYSE and Rule 10A-3 under the Exchange Act, and is chaired by Mr. Raymond. We believe that each of the members of the Audit Committee is financially sophisticated and is able to read

and understand our consolidated financial statements. Our Board of Directors has determined that Mr. Raymond is an Audit Committee “financial expert” as defined under the regulations of the Exchange Act. Our Board of Directors has adopted a written charter for the Audit Committee. Our Audit Committee held five meetings during 2006. Mr. Raymond also serves on the Audit Committee of NationsHealth,

BMC Software, Inc. and DocuCorp. International, Inc. Our Board of Directors has determined Mr. Raymond's service on the audit committees of these companies does not impair his ability to serve on our Audit Committee. Our Board of Directors adopted the Audit Committee charter on May 10, 2004. The charter was amended on March 16, 2007.

Compensation Committee. Our Compensation Committee is primarily responsible for reviewing and approving the compensation and benefits of our executive officers and Directors; evaluating the performance and compensation of our executive officers in light of our corporate goals and objectives; administering our employee benefit plans and making recommendations to our Board of Directors regarding these matters; and for administering our equity compensation plans. Our Compensation Committee currently consists of Messrs. Hollin, Niehaus and Palmer, each of whom is an independent director under current NYSE rules. Mr. Niehaus serves as chairman of our Compensation Committee. Our Compensation Committee held two meetings during 2006. Our Board of Directors adopted a written charter for the Compensation Committee in May 2004.

Nominating/Corporate Governance Committee. Our Nominating/Corporate Governance Committee makes recommendations to the Board of Directors concerning nominations to the Board, including nominations to fill a vacancy (including a vacancy created by an increase in the Board of Directors). The Nominating/Corporate Governance Committee will consider nominees for Directors nominated by stockholders upon submission in writing to our Corporate Secretary of the names of such nominees in accordance with our By-laws. This Committee is also charged with shaping corporate governance policies and codes of ethical and legal conduct, and monitoring compliance with such policies. Our Nominating/Corporate Governance Committee currently consists of Messrs. Bok and Raymond and Dr. Ostro, each of whom is an independent director under current NYSE rules. Our Board of Directors has adopted a written charter for the Nominating/Corporate Governance Committee. Our Nominating/Corporate Governance Committee held one meeting during 2006.

Communication with Directors

Stockholders who wish to communicate with the entire Board of Directors, the non-management Directors as a group or the Chairs of any of the Board committees may do so telephonically by calling Charles Kallenbach at 609-683-3831, extension 2224 or by mail c/o Corporate Secretary, Heartland Payment Systems, Inc., 90 Nassau Street, 2nd Floor, Princeton, New Jersey 08542. Communications are distributed to the Board, or to any individual Director or Directors as appropriate, depending on the facts and circumstances outlined in the communication. In that regard, the Board of Directors has requested that certain items that are unrelated to the duties and responsibilities of the Board should be excluded, such as spam, job inquiries, business solicitations or product inquiries. In addition, material that is unduly hostile, threatening, illegal or similarly unsuitable will be excluded, with the provision that any communication that is filtered out must be made available to any Director upon request.

Our Board has also adopted policies designed to allow stockholders and other interested parties to communicate directly with our directors. Any interested party that wishes to communicate directly with the Board or any director or the non-management directors as a group should send communications in writing to Chairman of the Audit Committee (currently George F. Raymond), c/o Heartland Payment Systems, Inc., 90 Nassau Street, Princeton, New Jersey 08542. The mailing envelop must contain a clear notation indicating that the enclosed letter is "Stockholder/Interested Party - Non-Management Director Communication," "Stockholder/Interested Party - Board Communication," "Stockholder/Interested Party - Audit Committee Communication" or "Stockholder/Interested Party - Director Communication," as appropriate. All such letters must identify the author as a stockholder or other interested party and clearly state whether the intended recipients are all members of the Board, a committee of the Board or certain specified individual directors. Copies of all such letters will be circulated to the appropriate director or directors. There is no screening process in respect of communications from stockholders or other interested parties which are sent in such manner. Interested parties may also call Mr. Raymond with such concerns at (239) 948-9453 or (856)235-8379. The information for communicating with the Audit Committee and Non-management directors is also available in the Corporate Governance Guidelines which are located in the investor relations section of our website,

www.heartlandpaymentsystems.com.

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Director Compensation

In 2006, members of the Board of Directors who were not our employees received annual retainers of \$10,000. Mr. Carr, as an employee of the Company, did not receive compensation for his service on the Board of Directors. The chair of the Audit Committee, Mr. Raymond, receives an annual retainer of \$15,000. In addition, all members of the Board of Directors who were not our employees received \$1,500 for each board meeting attended in person and \$1,000 for each committee meeting attended in person. Any new non-employee Director who has not been in our prior employ will receive an initial option to purchase 10,000 shares of our common stock on the date such individual joins the Board of Directors. These options will vest over a period of two years. In addition, beginning on the date of the third annual stockholders meeting held after a non-employee Director joins the Board, such Director will automatically be granted a vested option to purchase 5,000 shares of our common stock. See “Executive Compensation—Heartland Payment Systems, Inc. Amended and Restated 2000 Equity Incentive Plan.”

Under these arrangements, we paid the members of the Board of Directors who are not our employees the following compensation during the fiscal year ended December 31, 2006:

<u>Name</u>	<u>Fees Earned</u> or <u>Paid in Cash</u> <u>(\$)</u>	<u>Stock</u> <u>Awards</u> <u>(\$)</u>	<u>Option</u> <u>Awards</u> <u>(\$)</u>	<u>Non-Equity</u>	<u>All Other</u> <u>Compensation</u> <u>(\$)</u>	<u>Total</u> <u>Compensation</u> <u>(\$)</u>
				<u>Incentive Plan</u> <u>Compensation</u> <u>(\$)</u>		
Scott L. Bok	\$ 14,500		\$ 32,550(1)			\$ 47,050
Mitchell L. Hollin.	\$ 14,500		\$ 32,550(1)			\$ 47,050
Robert H. Niehaus	\$ 14,500		\$ 32,550(1)			\$ 47,050
Marc J. Ostro, Ph.D	\$ 14,500		\$ 32,550(1)			\$ 47,050
Jonathan J. Palmer	\$ 13,000		\$ 32,550(1)			\$ 45,550
George F. Raymond	\$ 16,750		\$ 32,550(1)			\$ 49,300

(1) Amounts represent the total fair value of stock options granted in 2006 as determined under SFAS No. 123R.

Under SFAS No. 123R, we estimate the grant date fair value of the stock options we issue using the Black-Scholes valuation model. We determine an expected volatility assumption by referencing the average volatility experienced by six of our public company peers. We used an average of a peer group because we do not have sufficient historical volatility data related to market trading of our own common stock. We estimate the expected life of a stock option based on the simplified method for “plain-vanilla” stock options as provided by the staff of the SEC in Staff Accounting Bulletin 107. The simplified method is used because, at this point, we do not have sufficient historical information to develop reasonable expectations about future exercise patterns. Our dividend yield assumption is based on actual dividends expected to be paid over the expected life of the stock option. Our risk-free interest rate assumption for stock options granted is determined by using U.S. treasury rates of the same period as the expected option term of each stock option. The fair value of each option we granted to the members of our Board of Directors during 2006 was \$6.51. The fair value of options granted during 2006 was estimated at the grant date using the following weighted average assumptions:

