

VIVUS INC  
Form DEFA14A  
March 08, 2013

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

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**FORM 8-K**

**CURRENT REPORT**

**Pursuant to Section 13 or 15(d) of  
The Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported)

**March 8, 2013**

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**VIVUS, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
incorporation)

**001-33389**  
(Commission File Number)

**94-3136179**  
(IRS Employer  
Identification No.)

**1172 CASTRO STREET**  
**MOUNTAIN VIEW, CA 94040**

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(Address of principal executive offices, including zip code)

**(650) 934-5200**

(Registrant's telephone number, including area code)

**N/A**

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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**Item 8.01. Other Events**

On March 8, 2013, VIVUS, Inc. issued a press release titled "VIVUS Confirms Receipt of Notice of Nomination from First Manhattan Co." A copy of the press release is attached hereto as Exhibit 99.1 and is incorporated by reference herein.

**Important Additional Information**

VIVUS, its directors and certain of its executive officers may be deemed to be participants in the solicitation of proxies from VIVUS stockholders in connection with the matters to be considered at VIVUS's 2013 Annual Meeting of Stockholders. VIVUS intends to file a proxy statement with the U.S. Securities and Exchange Commission (the "SEC") in connection with any such solicitation of proxies from VIVUS stockholders. INVESTORS AND STOCKHOLDERS ARE STRONGLY ENCOURAGED TO READ ANY SUCH PROXY STATEMENT AND ACCOMPANYING PROXY CARD AND OTHER DOCUMENTS FILED WITH THE SEC CAREFULLY AND IN THEIR ENTIRETY WHEN THEY BECOME AVAILABLE AS THEY WILL CONTAIN IMPORTANT INFORMATION. Information regarding the identity of potential participants, and their direct or indirect interests, by security holdings or otherwise, will be set forth in the proxy statement and other materials to be filed with the SEC in connection with VIVUS's 2013 Annual Meeting of Stockholders. Information regarding the direct and indirect beneficial ownership of VIVUS's directors and executive officers in VIVUS securities is included in their SEC filings on Forms 3, 4 and 5, and additional information can also be found in VIVUS's Annual Report on Form 10-K for the year ended December 31, 2012, filed with the SEC on February 26, 2013, and in VIVUS's definitive proxy statement on Schedule 14A in connection with VIVUS's 2012 Annual Meeting of Stockholders, filed with the SEC on April 25, 2012. Stockholders will be able to obtain any proxy statement, any amendments or supplements to the proxy statement and other documents filed by VIVUS with the SEC for no charge at the SEC's website at [www.sec.gov](http://www.sec.gov). Copies will also be available at no charge at the Investor Relations section of VIVUS's corporate website at [www.vivus.com](http://www.vivus.com).

**Item 9.01. Financial Statements and Exhibits**

**(d) Exhibits.**

<b>Exhibit No.</b>	<b>Description</b>
99.1	Press Release issued by VIVUS, Inc. dated March 8, 2013.

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

**VIVUS, INC.**

By: /s/ Lee B. Perry  
**Lee B. Perry**

**Vice President and Chief Accounting Officer**

Date: March 8, 2013

**EXHIBIT INDEX**

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