

VIVUS INC
Form 4
January 18, 2017

FORM 4

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

OMB APPROVAL

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STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934, Section 17(a) of the Public Utility Holding Company Act of 1935 or Section 30(h) of the Investment Company Act of 1940

(Print or Type Responses)

1. Name and Address of Reporting Person *
Roberts Eric W

(Last) (First) (Middle)

C/O VIVUS, INC., 900 E.
HAMILTON AVE., SUITE 550

(Street)

CAMPBELL, CA 95008

(City) (State) (Zip)

2. Issuer Name and Ticker or Trading Symbol
VIVUS INC [VVUS]

3. Date of Earliest Transaction
(Month/Day/Year)
01/13/2017

4. If Amendment, Date Original Filed(Month/Day/Year)

5. Relationship of Reporting Person(s) to Issuer

(Check all applicable)

Director 10% Owner
 Officer (give title below) Other (specify below)

6. Individual or Joint/Group Filing(Check Applicable Line)
 Form filed by One Reporting Person
 Form filed by More than One Reporting Person

Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

1. Title of Security (Instr. 3)	2. Transaction Date (Month/Day/Year)	2A. Deemed Execution Date, if any (Month/Day/Year)	3. Transaction Code (Instr. 8)	4. Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5)	5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4)	6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	7. Nature of Ownership (Instr. 4)
				(A) or (D) Code V Amount (D) Price			
Common Stock	01/15/2017		M	1,389 A	\$ 34,726	D	
Common Stock	01/15/2017		D ⁽²⁾	539 D	\$ 34,187	D	

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

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(9-02)

Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned
(e.g., puts, calls, warrants, options, convertible securities)

1. Title of Derivative Security (Instr. 3)	2. Conversion or Exercise Price of Derivative Security	3. Transaction Date (Month/Day/Year)	3A. Deemed Execution Date, if any (Month/Day/Year)	4. Transaction Code (Instr. 8)	5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instr. 3, 4, and 5)	6. Date Exercisable and Expiration Date (Month/Day/Year)	7. Title and Amount of Underlying Securities (Instr. 3 and 4)		
				Code	V (A) (D)	Date Exercisable	Expiration Date	Title	Amount or Number of Shares
Restricted Stock Units	(3)	01/13/2017		A	50,000	(4)	(4)	Common Stock	50,000
Restricted Stock Units	(1)	01/15/2017		M	1,389	(5)	(5)	Common Stock	1,389

Reporting Owners

Reporting Owner Name / Address	Relationships			
	Director	10% Owner	Officer	Other
Roberts Eric W C/O VIVUS, INC. 900 E. HAMILTON AVE., SUITE 550 CAMPBELL, CA 95008	X			

Signatures

/s/ Julie Hollenback,
Attorney-in-Fact

01/18/2017

**Signature of Reporting Person

Date

Explanation of Responses:

- * If the form is filed by more than one reporting person, see Instruction 4(b)(v).
 - ** Intentional misstatements or omissions of facts constitute Federal Criminal Violations. See 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).
- (1) Restricted stock units converted into VIVUS, Inc. common stock on a 1-for-1 basis upon vesting.
 - (2) The reporting person did not sell or otherwise dispose of any of the shares reported on this Form 4 for any reason other than by way of forfeiture to VIVUS, Inc. in order to cover estimated tax liability.
 - (3) Each restricted stock unit represents a contingent right to receive one share of VIVUS, Inc. common stock.
The restricted stock units (RSUs) vest according to the following schedule: Commencing on November 8, 2016, 1/4th of the total RSUs originally granted shall vest on each of February 8, 2017, May 8, 2017, August 8, 2017 and November 8, 2017; provided, however, that (a) if the next annual stockholder meeting occurs prior to November 8, 2017 and the individual has remained a Service Provider (as defined in the VIVUS, Inc. 2010 Equity Incentive Plan), the vesting of the RSUs shall accelerate in full as of the date of the next annual stockholder meeting and (b) if the individual ceases to be a Service Provider (other than removal for cause) prior to any of the foregoing vesting dates, then 1/12th of the shares underlying the RSUs shall accelerate for each month elapsed from the most recent vesting date until the month in which the individual (i) ceases to be a Service Provider and (ii) has remained a Service Provider through at least the 8th day of such month.

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- (5) The restricted stock units vest according to the following schedule: 8/36ths of the total restricted stock units originally granted vested on May 15, 2016, and an additional 1/36th of the total restricted stock units originally granted vest on the 15th of each month thereafter, subject to the individual continuing to be a Service Provider (as defined in the VIVUS, Inc. 2010 Equity Incentive Plan) on the relevant vesting dates.

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, *see* Instruction 6 for procedure. Potential persons who are to respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB number.