

VIVUS INC  
Form 4  
January 31, 2017

**FORM 4**

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

OMB APPROVAL

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Check this box if no longer subject to Section 16. Form 4 or Form 5 obligations may continue. See Instruction 1(b).

**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 \*  
Fischer Seth H. Z.

(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)  
01/27/2017

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)  
Chief Executive Officer

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) Price			
Common Stock <sup>(1)</sup>	01/27/2017		A	150,000 <sub>(2)</sub>	\$ 0	D	636,080

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

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SEC 1474 (9-02)

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

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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)
Employee Stock Option (right to buy)	\$ 1.12	01/27/2017		A	1,000,000	(3) 01/27/2024	Common Stock 1,000,000

## Reporting Owners

Reporting Owner Name / Address	Relationships			
	Director	10% Owner	Officer	Other
Fischer Seth H. Z. C/O VIVUS, INC. 900 E. HAMILTON AVE., SUITE 550 CAMPBELL, CA 95008	X		Chief Executive Officer	

## Signatures

/s/ Julie Hollenback,  
Attorney-in-Fact  
Date: 01/31/2017

\*\*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) Each restricted stock unit represents a contingent right to receive one share of VIVUS, Inc. common stock.

(2) The restricted stock units vest according to the following schedule: twenty-five percent (25%) of the total restricted stock units vest on January 27, 2018 with an additional six and one quarter percent (6.25%) of the total restricted stock units vesting quarterly thereafter (i.e., April 27th, July 27th, October 27th, and January 27th) until all of the restricted stock units are vested, subject to such individual continuing to be a Service Provider (as defined in the Issuer's 2010 Equity Incentive Plan) on the relevant vesting dates.

(3) Twenty-five percent (25%) of the total number of shares underlying the option will vest and become exercisable on January 27, 2018, and one forty-eighth (1/48th) of the total number of shares underlying the option will vest on the 27th of each month thereafter, subject to the reporting person continuing to be a Service Provider (as defined in the Issuer's 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.

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