

VIVUS INC  
Form 4  
February 03, 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 \*  
NORTH TIDE CAPITAL, LLC

(Last) (First) (Middle)

500 BOYLSTON STREET, SUITE 1860

(Street)

BOSTON, MA 02116

(City) (State) (Zip)

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

3. Date of Earliest Transaction (Month/Day/Year)  
02/01/2017

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

5. Relationship of Reporting Person(s) to Issuer

(Check all applicable)

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

6. Individual or Joint/Group Filing(Check Applicable Line)  
\_\_\_ Form filed by One Reporting Person  
\_X\_ 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 Indirect Beneficial Ownership (Instr. 4)
				(A) or (D) Code V Amount (D) Price			
Common Stock	02/01/2017		S	1,000 D \$ 1.14	13,586,460	I <sup>(1)</sup>	See Footnote <u>(1)</u> <u>(2)</u>
Common Stock	02/01/2017		S	21,000 D \$ 1.1334	13,565,460	I <sup>(1)</sup>	See Footnote <u>(1)</u> <u>(3)</u>
Common Stock	02/02/2017		S	3,200 D \$ 1.13	13,562,260	I <sup>(1)</sup>	See Footnote <u>(1)</u> <u>(4)</u>
Common Stock	02/03/2017		S	53,433 D \$ 1.1171	13,508,827	I <sup>(1)</sup>	See Footnote

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)	8. Price of Derivative Security (Instr. 5)	9. Number of Derivative Securities Owned Beneficially (Instr. 5)
				Code	V (A) (D)	Date Exercisable	Expiration Date	Title	Amount or Number of Shares

## Reporting Owners

Reporting Owner Name / Address	Relationships			
	Director	10% Owner	Officer	Other
NORTH TIDE CAPITAL, LLC 500 BOYLSTON STREET SUITE 1860 BOSTON, MA 02116		X		
North Tide Capital Master, LP 500 BOYLSTON STREET SUITE 1860 BOSTON, MA 02116		X		
Laughlin Conan 500 BOYLSTON STREET SUITE 1860 BOSTON, MA 02116		X		

## Signatures

/s/ NORTH TIDE CAPITAL, LLC by Conan Laughlin, Manager

02/03/2017

\_\_Signature of Reporting Person

Date

02/03/2017

/s/ NORTH TIDE CAPITAL MASTER, LP, by North Tide Capital GP, LLC, Conan Laughlin, Manager

\_\_Signature of Reporting Person

Date

/s/ Conan Laughlin, Individually

02/03/2017

\_\_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).

North Tide Capital, LLC ("North Tide") serves as investment manager for North Tide Capital Master, LP (the "Master Fund") and a managed account (the "Account"). Each of the Reporting Persons disclaims beneficial ownership of the shares reported herein except to

(1) the extent of its or his pecuniary interest therein, and the filing of this Form 4 shall not be construed as an admission that any of the Reporting Persons is the beneficial owner of any such shares for purposes of Section 16(a) of the Securities Exchange Act of 1934 or for any other purpose.

Of the shares sold on February 1, 2017 at a price of \$1.14 per share, 925 shares were held for the account of the Master Fund, 75 shares were held for the Account of the Account, and all of such shares may be deemed to have been beneficially owned by North Tide and Mr. Laughlin.

(2) Of the shares sold on February 1, 2017 at a price of \$1.1334 per share, 19,419 shares were held for the account of the Master Fund, 1,581 shares were held for the Account of the Account, and all of such shares may be deemed to have been beneficially owned by North Tide and Mr. Laughlin.

(3) Of the shares sold on February 2, 2017, 2,959 shares were held for the account of the Master Fund, 241 shares were held for the Account of the Account, and all of such shares may be deemed to have been beneficially owned by North Tide and Mr. Laughlin.

Of the shares sold on February 3, 2017, 49,410 shares were held for the account of the Master Fund, 4,023 shares were held for the Account of the Account, and all of such shares may be deemed to have been beneficially owned by North Tide and Mr. Laughlin. As of

(4) February 3, 2017, 11,868,247 shares were held for the account of the Master Fund, 1,640,580 shares were held for the account of the Account, and all of such shares may be deemed beneficially owned by North Tide and Mr. Laughlin.

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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