

VIVUS INC  
Form 8-K  
November 04, 2008

## **UNITED STATES**

# **SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

## **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)

**November 3, 2008**

## **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**

(Address of principal executive offices, including zip code)

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(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:

- 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 2.02. Results of Operations and Financial Condition.**

On November 4, 2008, VIVUS, Inc. issued a press release regarding its financial results for the third quarter ended September 30, 2008 and certain other information. A copy of the press release is attached hereto as Exhibit 99.1.

**Item 8.01. Other Events.**

On November 3, 2008, VIVUS, Inc. issued a press release titled VIVUS Announces Upcoming Webcasts and Conference Participation. A copy of the press release is attached hereto as Exhibit 99.2.

The information in this Form 8-K and the exhibits attached hereto shall not be deemed filed for purposes of Section 18 of the Securities Act of 1934, as amended (the Exchange Act ), or otherwise subject to the liabilities of that Section, or incorporated by reference in any filing under the Securities Act of 1933, as amended, or the Exchange Act, except as shall be expressly set forth by specific reference in such filing.

**Item 9.01. Financial Statements and Exhibits.**

(d) Exhibits.

<b>Exhibit Number</b>	<b>Description</b>
99.1	Press release dated November 4, 2008, titled VIVUS Reports Third Quarter 2008 Financial Results.
99.2	Press release dated November 3, 2008, titled VIVUS Announces Upcoming Webcasts and Conference Participation.

**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.**

/s/ Lee B. Perry  
Lee B. Perry  
Vice President and Chief Accounting Officer

Date: November 4, 2008

**EXHIBIT INDEX**

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