



**THE FOUNDATION
FOR SECURE
MARKETS**

#47999

DATE: DECEMBER 14, 2020

**SUBJECT: VIVUS, INC. – CONTRACT ADJUSTMENT/ACCELERATION OF EXPIRATIONS
OPTION SYMBOL: VVUSQ
DATE: 12/14/20**

On December 10, 2020, the United States Bankruptcy Court District of Delaware confirmed the Second Amended Joint Prepackaged Chapter 11 Plan of Reorganization (“Plan”) of VIVUS, Inc. and its Affiliated Debtors. The Plan became effective on December 14, 2020, and VIVUS, Inc. shares were canceled.

VVUSQ shareholders of record on the Existing Stock Record Date of November 13, 2020, are entitled to participate in the Existing Stock Settlement and receive a pro rata portion of the Existing Stock Cash, as described in the Plan. **Any holder who acquires shares after the Existing Stock Record Date of November 13, 2020 is not eligible to participate in the Existing Stock Settlement and will not receive any distribution per the Plan.**

CONTRACT ADJUSTMENT

Effective December 14, 2020, existing VVUSQ options are adjusted to no longer call for the delivery of VVUSQ shares upon exercise.

The option symbol VVUSQ will not change.

In settlement of VVUSQ exercise/assignment activity, a VVUSQ put exerciser (or call assignee) will receive a cash payment of the full aggregate strike price amount on the exercise settlement date. A VVUSQ put assignee (or call exercise) will pay this amount on the exercise settlement date. Settlement will take place through OCC’s cash settlement system on the second business day after exercise.

Since VVUSQ options are American-style, they are exercisable at the election of the holder. Expiration processing for VVUSQ options will take place in the normal fashion, including automatic exercise thresholds.

ACCELERATION OF EXPIRATIONS

Pursuant to OCC Rule 807, equity stock option contracts whose deliverables are adjusted to call for cash-only delivery will be subject to an acceleration of the expiration dates for outstanding option series. (See OCC Information Memo 23707) Additionally, the exercise by exception (ex by ex) threshold for expiring series will be \$.01 in all account types.

All series of VIVUS, Inc. options whose expiration dates are after 12-18-2020 will have their expiration dates advanced to 12-18-2020. Expiration dates occurring before 12-18-2020 (e.g., Flex options) will remain unchanged.

All VIVUS, Inc. options will utilize a \$.01 exercise threshold.

Option Symbol: VVUSQ

Existing Expiration: All months

New expiration date: 12-18-2020

Existing American-style VIVUS, Inc. options remain exercisable at the option of the holder prior to their expiration. Exercised options will continue to settle in two business days.

DISCLAIMER

This Information Memo provides an unofficial summary of the terms of corporate events affecting listed options or futures prepared for the convenience of market participants. OCC accepts no responsibility for the accuracy or completeness of the summary, particularly for information which may be relevant to investment decisions. Option or futures investors should independently ascertain and evaluate all information concerning this corporate event(s).

The determination to adjust options and the nature of any adjustment is made by OCC pursuant to OCC By-Laws, Article VI, Sections 11 and 11A. The determination to adjust futures and the nature of any adjustment is made by OCC pursuant to OCC By-Laws, Article XII, Sections 3, 4, or 4A, as applicable. For both options and futures, each adjustment decision is made on a case by case basis. Adjustment decisions are based on information available at the time and are subject to change as additional information becomes available or if there are material changes to the terms of the corporate event(s) occasioning the adjustment.

ALL CLEARING MEMBERS ARE REQUESTED TO IMMEDIATELY ADVISE ALL BRANCH OFFICES AND CORRESPONDENTS ON THE ABOVE.

For questions regarding this memo, call Investor Services at 1-888-678-4667 or email investorservices@theocc.com. Clearing Members may contact Member Services at 1-800-544-6091 or, within Canada, at 1-800-424-7320, or email memberservices@theocc.com.