



# VIVUS Receives Court Approval of Joint Chapter 11 Plan of Reorganization

CAMPBELL, Calif., Dec. 11, 2020 (GLOBE NEWSWIRE) -- VIVUS, Inc. (the “**Company**”), a biopharmaceutical company, today announced that it has received approval from the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”) on its *Second Amended Joint Prepackaged Chapter 11 Plan of Reorganization of VIVUS, Inc. and Its Affiliated Debtors* [Docket No. 339] (the “**Plan**”).

The Bankruptcy Court approved the disclosure statement and solicitation procedures and confirmed the second amended chapter 11 plan of reorganization, which implements the mediated settlement among the Company, Icahn Enterprises Holdings L.P. (dba IEH Biopharma LLC), and the Equity Committee. VIVUS will emerge from chapter 11 as a wholly-owned subsidiary of Icahn Enterprises L.P.

As set forth in a letter filed with the Bankruptcy Court, the Plan has the full support of the official committee of equity security holders appointed in the Company’s chapter 11 case (the “**Equity Committee**”) and incorporates the terms and conditions of the plan support agreement filed with the Bankruptcy Court on November 5, 2020.

VIVUS will continue to manufacture, sell and provide physician and patient support for its commercial products, Qsymia® (phentermine and topiramate extended-release) capsules CIV for weight management in adults and PANCREAZE® (pancrelipase) for the treatment of exocrine pancreatic insufficiency due to cystic fibrosis or other conditions. It will also continue to offer services through the VIVUS Health Platform.

## **About VIVUS**

VIVUS is a biopharmaceutical company committed to the development and commercialization of innovative therapies that focus on advancing treatments for patients with serious unmet medical needs. For more information about the Company, including for a copy of the Plan and all other documents filed with the Bankruptcy Court, please visit <https://cases.stretto.com/vivus/>.

## **About Icahn Enterprises L.P.**

Icahn Enterprises L.P., a master limited partnership, is a diversified holding company engaged in seven primary business segments: Investment, Energy, Automotive, Food Packaging, Metals, Real Estate and Home Fashion.

### **About Qsymia**

Qsymia is approved in the U.S. and is indicated as an adjunct to a reduced-calorie diet and increased physical activity for chronic weight management in adults with an initial body mass index (BMI) of 30 kg/m<sup>2</sup> or greater (obese) or 27 kg/m<sup>2</sup> or greater (overweight) in the presence of at least one weight-related medical condition such as high blood pressure, type 2 diabetes, or high cholesterol.

The effect of Qsymia on cardiovascular morbidity and mortality has not been established. The safety and effectiveness of Qsymia in combination with other products intended for weight loss, including prescription and over-the-counter drugs, and herbal preparations, have not been established.

For more information about Qsymia, please visit [www.Qsymia.com](http://www.Qsymia.com).

### **About PANCREAZE**

PANCREAZE is a prescription medicine used to treat people who cannot digest food normally because their pancreas does not make enough enzymes due to cystic fibrosis or other conditions. PANCREAZE may help your body use fats, proteins, and sugars from food. PANCREAZE contains a mixture of digestive enzymes including lipases, proteases, and amylases from pig pancreas. PANCREAZE is safe and effective in children when taken as prescribed by your doctor.

The Product Information and Medication Guide for PANCREAZE is available at [www.pancrease.com](http://www.pancrease.com).

### **Forward-Looking Statements**

#### ***Important Information and Cautionary Note Regarding Forward-Looking Statements***

*Certain statements in this press release are forward-looking within the meaning of the Private Securities Litigation Reform Act of 1995, as amended, and/or covered by the "Bespeaks Caution" doctrine applied by the courts under the antifraud provisions of the federal securities laws, and other applicable provisions of the federal securities laws. Such forward-looking statements are based on current expectations, management's beliefs and certain assumptions made by the Company's management. These statements may be identified by the use of forward-looking words such as "will," "shall," "may," "believe," "expect," "forecast," "intend," "anticipate," "predict," "should," "plan," "likely," "opportunity," "estimated," and "potential," and/or the negative use of these words or other similar words. All forward-looking statements included in this document are based on our current expectations, and we assume no obligation to update any such forward-looking statements except to the extent otherwise required by law or the Bankruptcy Court.*

*Important factors that could cause actual results to differ materially from those anticipated in any forward-looking statement include, but are not limited to: the risk that there will ultimately be no Royalty Payments distributed by the Liquidating Trust whether due to failure to develop VI-0106, certain conditions under the Royalty Agreement or terms of the Liquidating Trust not being satisfied or other factors; the risk that the Company has no obligation to develop VI-0106, the development of which any royalties would be paid under the Royalty Agreement; the risks related to the trading of common stock in the Company on the OTC Pink Market, particularly because the Plan states that only the holders of Existing Stock are entitled to participate in the Existing Stock Settlement and all Interests in the Company will be cancelled upon the effective date of the Plan, subject to the Bankruptcy Court's confirmation of the Plan; risks and uncertainties relating to the chapter 11 case, including but not limited to, the Company's ability to obtain Bankruptcy Court approval with respect to motions filed by the Company in the chapter 11 case (including the Plan, the Existing Stock Settlement, and the Plan Supplement), the effects of the chapter 11 case on the Company and on the interests of various constituents, Bankruptcy Court rulings in the chapter 11 case and the outcome of the chapter 11 case in general, the length of time the Company will operate under the chapter 11 case, risks associated with third-party motions in the chapter 11 case, the potential adverse effects of the chapter 11 case on the Company's liquidity or results of operations and increased legal and other professional costs necessary to execute the Company's reorganization; the Company's ability to implement and realize any anticipated benefits of chapter 11 bankruptcy protection; the ability of the Company to obtain requisite support for the Plan; the ability of the Company to execute any plan of reorganization, including the Plan, in the manner and on the timeline as set forth under the Plan, including the Existing Stock Settlement; the Company's debt profile and risks related to its capital structure; the effects of disruption from any reorganization and restructuring making it more difficult to maintain business, financing and operational relationships, to obtain and maintain normal terms with customers, suppliers and service providers and to retain key executives and to maintain various licenses and approvals necessary for the Company to conduct its business; the Company's ability to manufacture, sell, and provide its products and services; and the continuing widespread domestic and global impact of the COVID-19 pandemic on the Company's business, results of operations, customers, suppliers and other counterparties, and employees.*

*Investors also should read the risk factors and accompanying cautionary statements set forth in the Company's the Disclosure Statement for Joint Prepackaged Chapter 11 Plan of Reorganization of VIVUS, Inc. and its Affiliated Debtors [Docket No. 14] filed with the Bankruptcy Court on July 7, 2020, as amended by the First Amendment to Disclosure Statement for Joint Prepackaged Chapter 11 Plan of Reorganization of VIVUS, Inc. and its Affiliated Debtors [Docket No. 15], the Combined Hearing Notice, filed with the Bankruptcy Court on November 10, 2020, and other notices made available by the Company on the website maintained by the Voting Agent in the chapter 11 case: <https://cases.stretto.com/vivus/>.*

*The above factors, risks and uncertainties are difficult to predict, contain uncertainties that may materially affect actual results and may be beyond the Company's control. New factors, risks and uncertainties emerge from time to time, and it is not possible for management to predict all such factors, risks and uncertainties. Although the Company believes that the assumptions underlying the forward-looking statements contained herein*

*are reasonable, any of the assumptions could be inaccurate, and therefore any of these statements may prove to be inaccurate. In light of the significant uncertainties inherent in the forward-looking statements included herein, the inclusion of such information should not be regarded as a representation or warranty by the Company or any other person that the Company's objectives and plans will be achieved. These forward-looking statements speak only as of the date such statements were made or any earlier date indicated, and the Company does not undertake any obligation to update or revise any forward-looking statements, whether as a result of new information, future events, changes in underlying assumptions or otherwise, unless otherwise required by law or the Bankruptcy Court.*

**VIVUS, Inc.**

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