



Special Executive Report

DATE: August 31, 2018

SER#: 8210R

SUBJECT: **Amendments to Four (4) European Physically-Delivered Natural Gas Futures Contracts**

(SER 8210R supersedes SER 8210 dated August 21, 2018 to correct an administrative error in Rule 1159109. (“VAT”) of Chapter 1159 (“Dutch TTF Natural Gas Calendar Month Futures”) in Appendix A. Revised Appendix A deletes an incorrect reference that the CME Clearing House will in all cases issue a VAT invoice. No other changes have been made to the original SER.)

Effective Sunday, September 9, 2018, for trade date Monday, September 10, 2018, and pending all relevant CFTC regulatory review periods, New York Mercantile Exchange, Inc. (“NYMEX” or “Exchange”) will amend Four (4) European Natural Gas Contracts (the “Contracts”) as provided in the table below.

Contract Title	Commodity Code	Rulebook Chapter
UK NBP Natural Gas Calendar Month Futures	UKG	1157
UK NBP Natural Gas Daily Futures	NBD	1158
Dutch TTF Natural Gas Calendar Month Futures	TTF	1159
Dutch TTF Natural Gas Daily Futures	TTD	1160

Specifically, the Exchange will amend the Value Added Tax (“VAT”) rules for the Contracts to clarify responsibilities of Clearing Members in connection to the applicable VAT treatment. The amendments are set forth in blackline format in Appendix A. For additional information, please contact:

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Appendix A

NYMEX Rulebook

(additions underlined; deletions overstruck)

Chapter 1157 UK NBP Natural Gas Calendar Month Futures

1157109. VAT

While contract prices shall be exclusive of any taxes or duties, should Value Added Tax (VAT) be payable on UK NBP Natural Gas Calendar Month Futures, the relevant buyer shall be responsible for ensuring that it accounts for such VAT to the relevant tax authority under the reverse charge procedure where applicable, provided that the Clearing House issues it with a valid VAT invoice for the purchase.

Prior to entry into any UK NBP Natural Gas Calendar Month Futures Contract, Clearing Members must provide such information reasonably requested by the Clearing House for the purposes of determining the applicability of VAT or other taxes, including but not limited to valid VAT registration details, and for the purposes of accounting for any applicable taxes to a tax authority. The Clearing Member is deemed to represent and warrant that the information it has provided under this Rule is complete and accurate each time a contract is entered into.

Where VAT is due and payable and the reverse charge procedure does not apply, the buyer must make payment of such VAT to the Clearing House as seller at the same time as the payment of the purchase price and the Clearing House shall issue it with a valid VAT invoice for the purchase.

Where the reverse charge procedure applies, the Clearing Member warrants and represents that the relevant buyer has a valid VAT registration and will account for any applicable VAT to the relevant tax authority under the reverse charge procedure. Clearing Members must ensure that the buyer of natural gas provides the Clearing House with its valid VAT registration details prior to entry into any UK NBP Natural Gas Calendar Month Futures Contract, and the Clearing Member is deemed to represent and warrant that the information it has provided with respect to the buyer under this Rule is complete and accurate each time a contract is entered into.

Where the reverse charge procedure does not apply, the Clearing Member must notify the Clearing House prior to the entry into any UK NBP Natural Gas Calendar Month Futures contract and the Clearing Member shall provide such information reasonably requested by the Clearing House for the purposes of accounting for any applicable VAT to a tax authority.

The Clearing Member agrees to indemnify the Clearing House in respect of any VAT, interest, penalties and associated costs of the Clearing House in the event that the Clearing House does not receive any applicable VAT from the relevant buyer when due under this rule.

...
The remainder of the rule is unchanged.

Chapter 1158 UK NBP Natural Gas Daily Futures

1158109. VAT

While contract prices shall be exclusive of any taxes or duties, should Value Added Tax (VAT) be payable on UK NBP Natural Gas Daily Futures, the relevant buyer shall be responsible for ensuring that it accounts for such VAT to the relevant tax authority under the reverse charge procedure where applicable, provided that the Clearing House issues it with a valid VAT invoice for the purchase.

Prior to entry into any UK NBP Natural Gas Daily Futures Contract, Clearing Members must provide such information reasonably requested by the Clearing House for the purposes of determining the applicability of VAT or other taxes, including but not limited to valid VAT registration details, and for the purposes of accounting for any applicable taxes to a tax authority. The Clearing Member is deemed to represent and warrant that the information it has provided under this Rule is complete and accurate each time a contract is entered into.

Where VAT is due and payable and the reverse charge procedure does not apply, the buyer must make payment of such VAT to the Clearing House as seller at the same time as the payment of the purchase price and the Clearing House shall issue it with a valid VAT invoice for the purchase.

Where the reverse charge procedure applies, the Clearing Member warrants and represents that the relevant buyer has a valid VAT registration and will account for any applicable VAT to the relevant tax authority under the reverse charge procedure. Clearing Members must ensure that the buyer of natural gas provides the Clearing House with its valid VAT registration details prior to entry into any UK NBP Natural Gas Daily Futures Contract, and the Clearing Member is deemed to represent and warrant that the information it has provided with respect to the buyer under this Rule is complete and accurate each time a contract is entered into.

Where the reverse charge procedure does not apply, the Clearing Member must notify the Clearing House prior to the entry into any UK NBP Natural Gas Daily Futures contract and the Clearing Member shall provide such information reasonably requested by the Clearing House for the purposes of accounting for any applicable VAT to a tax authority.

The Clearing Member agrees to indemnify the Clearing House in respect of any VAT, interest, penalties and associated costs of the Clearing House in the event that the Clearing House does not receive any applicable VAT from the relevant buyer when due under this rule.

The remainder of the rule is unchanged.

Chapter 1159 Dutch TTF Natural Gas Calendar Month Futures

1159109. VAT

While contract prices shall be exclusive of any taxes or duties, should Value Added Tax (VAT) be payable on Dutch TTF Natural Gas Calendar Month Futures, the relevant buyer shall be responsible for ensuring that it accounts for such VAT to the relevant tax authority under the reverse charge

procedure where applicable, ~~provided that the Clearing House issues it with a valid VAT invoice for the purchase.~~

Prior to entry into any Dutch TTF Natural Gas Calendar Month Futures Contract, Clearing Members must provide such information reasonably requested by the Clearing House for the purposes of determining the applicability of VAT or other taxes, including but not limited to valid VAT registration details, and for the purposes of accounting for any applicable taxes to a tax authority. The Clearing Member is deemed to represent and warrant that the information it has provided under this Rule is complete and accurate each time a contract is entered into.

Where VAT is due and payable and the reverse charge procedure does not apply, including where VAT must be declared by the buyer under the rules for the place of supply for natural gas delivered within networks, the buyer must make payment of such VAT to the Clearing House as seller at the same time as the payment of the purchase price ~~and the Clearing House shall issue it with a valid VAT invoice for the purchase.~~

Where the reverse charge procedure applies, the Clearing Member warrants and represents that the relevant buyer has a valid VAT registration and will account for any applicable VAT to the relevant tax authority under the reverse charge procedure. ~~Clearing Members must ensure that the buyer of natural gas provides the Clearing House with its valid VAT registration details prior to entry into any Dutch TTF Natural Gas Calendar Month Futures Contract, and the Clearing Member is deemed to represent and warrant that the information it has provided with respect to the buyer under this Rule is complete and accurate each time a contract is entered into.~~

Where

- (a) the reverse charge procedure is not applicable; or
- (b) the relevant buyer under a Dutch TTF Natural Gas Calendar Month Futures contract:
 - (i) is not domiciled and has no VAT registration within the Netherlands; and
 - (ii) is not a "trader" or "dealer" within the meaning of the rules for the place of supply for natural gas delivered within networks; and
 - (iii) uses Dutch TTF Natural Gas within the Netherlands, or
- (c) the buyer intends to take physical delivery of Dutch TTF Natural Gas and such gas is not acquired for trading purposes.

the Clearing Member must notify the Clearing House prior to entry into any Dutch TTF Natural Gas Calendar Month Futures contract ~~and the Clearing Member shall provide such information reasonably requested by the Clearing House for the purposes of accounting for any applicable VAT to a tax authority.~~

The Clearing Member agrees to indemnify the Clearing House in respect of any VAT, interest, penalties and associated costs of the Clearing House in the event that the Clearing House does not receive any applicable VAT from the relevant buyer when due under this rule.

...

The remainder of the rule is unchanged.

Chapter 1160

Dutch TTF Natural Gas Daily Futures

1160109. VAT

While contract prices shall be exclusive of any taxes or duties, should Value Added Tax (VAT) be payable on Dutch TTF Natural Gas Daily Futures, the relevant buyer shall be responsible for ensuring that it accounts for such VAT to the relevant tax authority under the reverse charge procedure where applicable, provided that the Clearing House issues it with a valid VAT invoice for the purchase.

Prior to entry into any Dutch TTF Natural Gas Daily Futures Contract, Clearing Members must provide such information reasonably requested by the Clearing House for the purposes of determining the applicability of VAT or other taxes, including but not limited to valid VAT registration details, and for the purposes of accounting for any applicable taxes to a tax authority. The Clearing Member is deemed to represent and warrant that the information it has provided under this Rule is complete and accurate each time a contract is entered into.

Where VAT is due and payable and the reverse charge procedure does not apply, including where VAT must be declared by the buyer under the rules for the place of supply for natural gas delivered within networks, the buyer must make payment of such VAT to the Clearing House as seller at the same time as the payment of the purchase price and the Clearing House shall issue it with a valid VAT invoice for the purchase.

Where the reverse charge procedure applies, the Clearing Member warrants and represents that the relevant buyer has a valid VAT registration and will account for any applicable VAT to the relevant tax authority under the reverse charge procedure. Clearing Members must ensure that the buyer of natural gas provides the Clearing House with its valid VAT registration details prior to entry into any Dutch TTF Natural Gas Daily Futures Contract, and the Clearing Member is deemed to represent and warrant that the information it has provided with respect to the buyer under this Rule is complete and accurate each time a contract is entered into.

Where

- (a) the reverse charge procedure is not applicable; or
- (b) the relevant buyer under a Dutch TTF Natural Gas Daily Futures contract:
 - (i) is not domiciled and has no VAT registration within the Netherlands; and
 - (ii) is not a “trader” or “dealer” within the meaning of the rules for the place of supply for natural gas delivered within networks; and
 - (iii) uses Dutch TTF Natural Gas within the Netherlands, or

(c) the buyer intends to take physical delivery of Dutch TTF Natural Gas and such gas is not acquired for trading purposes,

the Clearing Member must notify the Clearing House prior to entry into any Dutch TTF Natural Gas Daily Futures contract and the Clearing Member shall provide such information reasonably requested by the Clearing House for the purposes of accounting for any applicable VAT to a tax authority.

The Clearing Member agrees to indemnify the Clearing House in respect of any VAT, interest, penalties and associated costs of the Clearing House in the event that the Clearing House does not receive any applicable VAT from the relevant buyer when due under this rule.

The remainder of the rule is unchanged.