

INSTRUCTION 2023/GARE_01/MDER – FORMALIZATION OF GUARANTEES BY ELECTRONIC MEANS

March 26th 2020

Preamble

MIBGAS Derivatives Rules and specifically the Annex 2: Specific Rules on MIBGAS Derivatives Spot, in its rule 6.4.5, “Formalising guarantees”, establish as possible instruments of formalization of guarantees for LNG products trading, among others, the following instruments:

- › “Guarantee of a joint nature loaned by a bank residing in a Member State of the European Union that does not belong to the group of the secured or backed-up entity, in favour of the Guarantees Manager and deposited in the banking institution, where the guarantor acknowledges that their obligation to pay the guarantee is at first request, completely abstract, without the guarantor being able to raise any objection to prevent paying the Guarantees Manager and especially, none originating from the underlying relationships between the guarantor and the guaranteed party

- › Joint Surety Insurance Certificate provided by an insurance company residing in a Member State of the European Union, authorized by the General Directorate for Insurance that does not belong to the insured party's group, in favour of MIBGAS Derivatives as the insured, where the insurance company acknowledges that their obligation to pay the guarantee is at first request, completely abstract, without the insurance company being able to raise any objection to prevent paying MIBGAS Derivatives and especially, none originating from the underlying relationships between the insurance company and the insured party. In particular, the Certificate will expressly mention that the failure to pay the premium will not give the insurance company the right to terminate the contract nor will the contract be cancelled or the insurance company's coverage be suspended, nor will the insurance company be freed from its obligation in the case of a delinquent payment by part of the insured party.”

The Royal Decree 463/2020, of March 14th, declaring the state of alarm for managing the health crisis caused by COVID-19, in Article 7, limits the freedom of movement of people.

MIBGAS Derivatives has been studying for a long time to implement a method of formalization of guarantees by electronic means that allows both market agents, guarantors and the market operator to benefit from the advantages that this method can offer.

The declaration of the state of alarm and the corresponding restrictions on mobility make it advisable for this operator to establish a method of formalizing guarantees by electronic means of an urgent and exceptional nature, which allows agents to formalize guarantees without the need for physical movements to deliver the guarantee at MIBGAS Derivatives offices.

Development of Rule 6.4.5 Formalising guarantees

MIBGAS Derivatives S.A. will accept the guarantee in form of Bank Guarantee or Surety Insurance Certificate in pdf format electronically signed by means of an electronic certificate of representation of the guarantor entity.

The signature must be such that it can be validated through the Valid-e application, at the following link, or another official application for certificates issued by certification bodies in the European Union:

<https://valide.redsara.es/valide/validarFirma/ejecutar.html>

The electronically signed guarantee will be sent by email to the following address: garantias@mibgas.es. It will not be necessary to provide any document in person at the MIBGAS Derivatives offices.

The rule 6.4.5.2, "Registration, cancellation and modification", will continue to apply, so agents must communicate the guarantee data through the MIBGAS Derivatives Platform for it to be accepted or to request its cancellation.

The acceptance by the market operator of the cancellation of the electronic guarantee will take place, for the purposes of the knowledge of the guarantor entity, by means of electronic sending. The document with the market operator electronic signature authorizing the cancellation of said guarantee will be sent to the agent by the market operator.

To this end, new models of Bank Guarantee and Surety Insurance Certificate are published in the MIBGAS Derivatives Access Guide, and no modification to the text thereof is admissible.

This Instruction will enter into force on March 27th, 2020.