

Signature by Mark

Issue Date

07/24/2008

A. Background

PBGC requires signatures on many documents that it receives. There are occasions when a payee from whom PBGC requires a signature is able only to make a mark, such as an X ("signature by mark"). PBGC accepts a signature by mark according to the conditions set forth in this internal guidance.

B. Scope and Effective Date

This internal guidance applies to all documents that require a signature and is effective upon issuance.

This internal guidance applies to PBGC trustee plans.

C. Internal Guidance

1. General Rule

PBGC requires that a signature by mark be notarized, or be witnessed by at least two individuals ("witnesses") to be accepted.

- a. Notarized signatures by mark will be accepted without further witnesses or attestations.
- b. Witnessed signatures by mark will be accepted provided they meet the following conditions:
 - i. The witnesses must know the person signing by mark and must witness the signature by mark at the time the person makes the mark,
 - ii. The witnesses must sign and date the document they are witnessing, and
 - iii. At least one witness must be a "disinterested witness" and must provide a written statement that he or she is disinterested.

2. Disinterested Witness

A disinterested witness is a person that receives no direct financial benefit from the document being witnessed. For example, if a participant designates a beneficiary using a signature by mark, the beneficiary is not considered disinterested, because the designation benefits him or her financially. However, other persons, such as the beneficiary's spouse, attorney, or employee, would be considered disinterested, though they might receive an indirect benefit through the beneficiary.

3. Special rule for a power-of-attorney designation

Unless a signature by mark on a power of attorney is notarized, it must be witnessed by two persons, neither of whom is the designated representative ("Holder"). The witnesses must also meet conditions (i) and (ii) described in section C.1.b. Additionally, a power of attorney signed by mark must meet the requirements of section D of PBGC Operating Internal Guidance Power of Attorney.