

	<h2 style="color: red;">Guideline</h2>	Document no.	
		RI-011EN	
	Anti-corruption guideline for external parties	Revision	1.0
	Page:	1/13	

Content:

1	TERMS	1
2	PURPOSE.....	2
3	SCOPE	4
4	GENERAL STANDARDS FOR THE ASSESSMENT OF BENEFITS	5
4.1	Basic principle: Prohibition on the acceptance or granting of benefits and ban on the acceptance of cash	5
4.2	Obligation to notify and provide approval.....	5
4.2.1	Basic principle: Notification and approval process according to the value of the benefit.....	6
4.2.2	Exception: Tacit approval without notification obligation regardless of the value of the benefit.....	7
4.3	Testing criteria	8
5	PARTICULARITIES.....	11
5.1	Benefits in foreign countries.....	11
5.2	Business trips	11
5.3	Other regulations which are to be complied with in the context of benefits	12
5.3.1	Taxation of benefit in kind.....	12
5.3.2	No entitlement to a daily allowance.....	12
6	CONTACT PARTNER	12
7	APPLICABLE DOCUMENTS.....	12
	ANNEX 1 TO THE ANTI-CORRUPTION GUIDELINE	13

1 TERMS

Office holders¹ are, among others, persons who are in an employment relationship under public law (a civil servant, a public sector employee, and a judge, for example). Members of parliament, members of the government and staff employed in international organisations are also considered to be office holders. An office holder is also somebody who is **appointed** according to German law to carry out **public administration tasks at a public authority** or another organisation or on their behalf, regardless of the organisational form which is chosen for the fulfilment of the tasks.

Persons with special public service obligations are considered equivalent to office holders for many criminal offences. It is necessary for such persons to sign a formal obligation according to the Law on the Commitment of Public Servants.

¹ Irrespective of the use of the masculine or feminine form, both genders are covered by the provisions in this guideline at all times.

	Guideline		Document no.
	Anti-corruption guideline for external parties		RI-011EN
			Revision
		Page:	2/13

External parties who carry out **public administration tasks** on behalf of the DAkKS are to be classified as office holders. Such external parties may include external experts, external members of the accreditation committee, sector committees and other bodies and committees of the DAkKS.

Benefits are all services to which the recipient has no legal entitlement and which objectively improve his economic, legal or personal situation. It is also necessary to remember that benefits which can be given to third parties (relatives or friends of the recipient, a sports association, a political party, a non-profit institution or a company) can also be considered as benefits.

The following services can be considered as benefits:

- assets and gifts of all type
- vouchers, free tickets, entry tickets, travel tickets
- the provision of services, granting of the use of vehicles, machinery, etc.
- the mediation of secondary employment or a job after the termination of the employment relationship
- Invitations, hospitality (such as trips to restaurants, hospitality during events, invitations to trade fairs, company visits, seminars, further training events, sports or cultural events)
- The provision of free or cut price accommodation
- Succession-related benefits (such as legacies, bequests)
- Presentation of prizes and awards
- Monetary payments, the provision of discounts or cut-price loans, etc.

Benefits in terms of this guideline generally refer to all services which are defined by this term. The question of whether the acceptance or granting of a benefit is allowed or not is determined by the criteria stated under Section **Fehler! Verweisquelle konnte nicht gefunden werden..**

2 PURPOSE

The DAkKS does not tolerate any corruption or unfair business practices. During our work, we attribute considerable value to quality, objectivity, impartiality, integrity, independence and transparency in order to justify the trust that is placed in us every day. We want to avoid possible conflicts of interest from the outset.

Despite these strict standards which are determined by the law and we ourselves, **sociable dealings** with **customers** and other **business partners** should be possible as always. This guideline should offer orientation in order to determine whether the acceptance or granting of a benefit is allowed in an individual case or not.

Insofar as you carry out public administration tasks on behalf of the DAkKS, as an **office holder** or as a **person with special public service obligations**² you fall under the criminal offences covered by Section 331 et seq. of the German Criminal Code (StGB). Accordingly, you are not permitted to accept, demand or

² For definitions, refer to the terms under Section 1.

	<h2 style="color: red;">Guideline</h2>	Document no.	
		RI-011EN	
	Anti-corruption guideline for external parties	Revision	1.0
	Page:	3/13	

promise any benefits relating to your professional activity³. Reciprocally, you are not permitted to offer, grant or promise any benefits to office holders or persons with special public service obligations⁴. Exceptions only exist if no influencing of the service activity may be feared in the individual case.

In the **private sector** (especially business conducted by DAkKS in third countries) the limits are formulated more broadly than they are in the governmental sphere. Nevertheless, any sign of influence must also be countered from the start. The acceptance and/or granting of benefits is also prohibited under certain conditions in the private sector and is punishable as an offence according to Section 299 of the German Criminal Code (StGB). Please note that insofar as you are appointed as an **assessor in a third country**, the DAkKS is in competition with other accreditation bodies, which means that in this case, you aren't only subject to a risk of prosecution as a recipient, but also as the person who grants the benefits. Please also note that in foreign countries, it is possible that you may not be able to determine whether the person to whom you grant the benefit is to be classified as an office holder or not. Therefore, **in the event of doubt**, you should refrain from **granting benefits** to a customer or business partner in a foreign country.

Please also remember that as an **external assessor** of the DAkKS, you can also be subject to the risk of prosecution if you grant benefits to **staff of the DAkKS** from whom you receive or expect **orders for the completion of appraisals**. **In the event of doubt, you should also refrain from granting benefits** to prevent either yourself or the staff of DAkKS from being exposed to the risk of prosecution.

There can and will never be such a thing as complete security when dealing with benefits. Grey areas always exist which cannot be assigned to a definitive regulation in advance. The objective of this guideline is to raise your awareness for dealings with invitations, gifts, rewards and other benefits and to strengthen your decision-making expertise so that you are in a position to judge and decide on the acceptance and granting of benefits. The RC department is available to provide you with advice and support if you have any questions about this guideline.

In the event of doubt it is better to avoid granting or accepting a benefit! We will be pleased to provide you with sample texts for the declining of invitations, gifts or other benefits.

³ Subsequent references to the acceptance of benefits always refer to both the alternative versions of Sections 331 et seq. and Section 299 of the German Criminal Code (StGB), (taking and giving) unless otherwise stated.

⁴ Subsequent references to the granting of benefits always refer to both the alternative versions of Sections 331 et seq. and Section 299 of the German Criminal Code (StGB), (offering and promising).

	<h2 style="color: red;">Guideline</h2>	Document no.	
		RI-011EN	
	<h3 style="color: red;">Anti-corruption guideline for external parties</h3>	Revision	1.0
	Page:	4/13	

3 SCOPE

This guideline is oriented to **external parties working for on behalf of the DAkKS** (especially external assessors, members of the accreditation committee or sector committees of the DAkKS). A separate anti-corruption guideline applies to staff of the DAkKS.

In signing the framework agreement, the **external assessors** of the DAkKS have declared their agreement with the provisions of the anti-corruption guideline in its otherwise valid version, and in adding their signature, have also declared that they will declare any possible benefits they accept or grant according to the conditions of the guideline to the department of Law & Compliance of the DAkKS. Furthermore, the external assessors are obliged on the basis of the Law on the Commitment of Public Servants and are therefore to be classified as **persons with special public service obligations**.

According to Section 5, para. 5 of the **rules of procedure for the sector committees of the DAkKS** and in **accepting their appointment** as a member of the sector committee, the **external members of the sector committee** of the DAkKS have declared their agreement with the rules of the anti-corruption guideline as well as future amendments to it. Furthermore, they have been obliged on the basis of the Law on the Commitment of Public Servants and are therefore to be classified as **persons with special public service obligations**.

The provisions of this anti-corruption guideline apply to **external AkA members** as soon as the rules of procedure of the accreditation committee have been amended accordingly. The legal regulations regarding the acceptance and granting of benefits also apply. The undertaking of an obligation according to the Law on the Commitment of Public Servants is also intended for external AkA members.

The provisions of this guideline not only apply in terms of the relationship between external parties and customers of the DAkKS, but also in terms of the relationship between external parties and staff of the DAkKS. As previously detailed under Section 2, the **assigning of orders to assessors** is subject to a risk of corruption.

Insofar as particular national **legal regulations** (e.g. in foreign countries) contain stricter provisions regarding the handling of benefits, these **take precedence**.

The same applies to possible **stricter regulations** which are stipulated by the corresponding **employer of the external person** with regard to the prevention of corruption. Stricter regulations of this kind also **take precedence** over the conditions in this anti-corruption guideline.

	<h2 style="color: red;">Guideline</h2>	Document no.	
		RI-011EN	
	<h3 style="color: red;">Anti-corruption guideline for external parties</h3>	Revision	1.0
	Page:	5/13	

4 GENERAL STANDARDS FOR THE ASSESSMENT OF BENEFITS

4.1 Basic principle: Prohibition on the acceptance or granting of benefits and ban on the acceptance of cash

It is generally the case that benefits may not be accepted or granted. The German Criminal Code formulates a strict prohibition and does not place any value limits to which benefits are classified as problem-free. Exceptions can only exist if no influencing is to be feared in the individual case. This is generally assumed to be the case for benefits up to a certain value. Exceptions consistently require the approval of DAkKS, however.⁵ The department of Law & Compliance (RC) is responsible for the issuing of such approval.

Demanding a benefit is also **inadmissible**, – regardless of the value of the benefit –. If an office holder and/or a person with special public service obligations demands a benefit, an approval will be immediately rejected.

Cash gifts are **inadmissible** under all circumstances (with equal application to the donor or the recipient) regardless of their sum.

4.2 Obligation to notify and provide approval

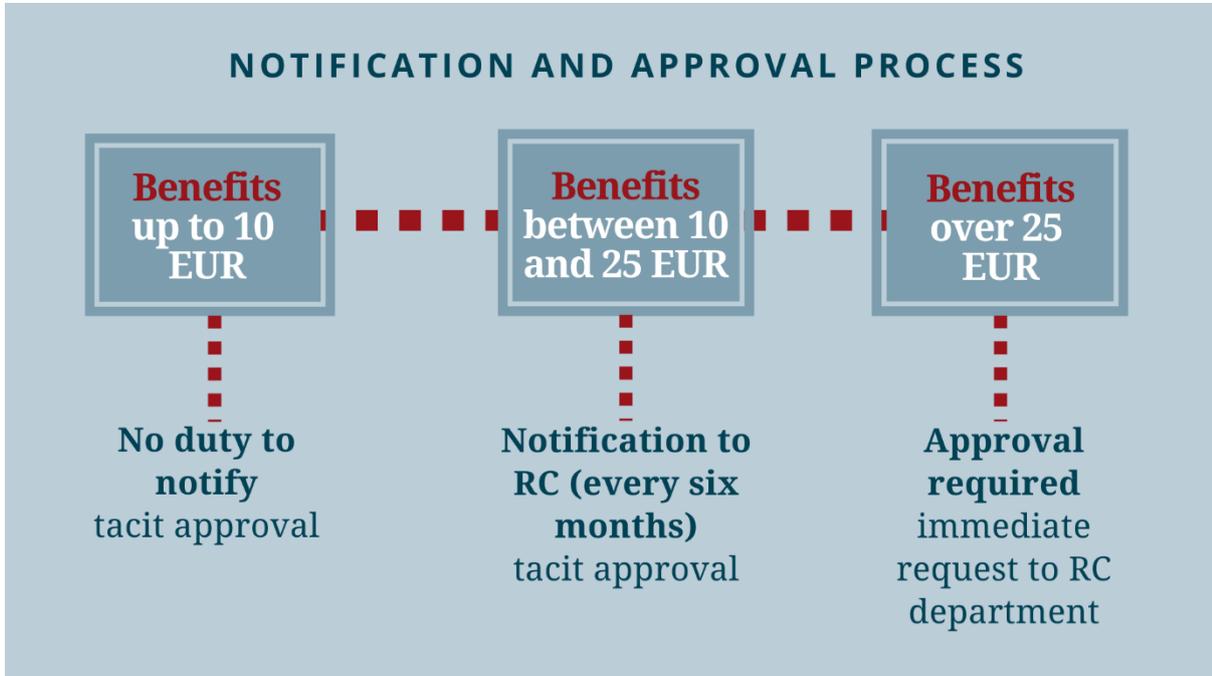
If you are offered benefits relating to your activity on behalf of the DAkKS or you would like to grant such benefits, you must provide notification of this to the RC department, and subject to divergent provisions in this document, you must do so without being prompted to do so and without delay. The RC department will decide whether the granting or acceptance of a benefit is admissible or not in the individual case.

⁵ Refer to the acceptance of benefits, Section 331, para. 3, StGB: The offence shall not be punishable under subsection (1) if the offender allows himself to be promised or accepts a benefit which he did not demand and the competent public authority, within the scope of its powers, either previously authorises the acceptance or the offender promptly makes a report to it and it authorises the acceptance. Also refer to the parallel provision in Section 333, para. 3, StGB.

	Guideline	Document no.	
		RI-011EN	
	Anti-corruption guideline for external parties	Revision	1.0
		Page:	6/13

4.2.1 Basic principle: Notification and approval process according to the value of the benefit

As a rule, the following notification and approval process applies:



The **obligation to provide notification is omitted** for minor benefits that have a value of **10 EUR⁶** or less (including promotional items such as pens or writing pads, for example).

The acceptance or granting of a benefit with a value of between **10 EUR and 25 EUR** must be notified to the RC department but it is not necessary to obtain express approval for it. The notification is to be carried out **every six months** using the **table** which is enclosed as **annex 1** (further details are provided in the table).

The notification obligation serves the purpose of determining the areas in which benefits are granted which are considered as more than just minor in the interests of the prompt future prevention.

The tacit approval can be withdrawn in individual cases.

In all other cases (**benefits of over 25 EUR**), a benefit may only be accepted or granted if the RC department has previously expressly approved the acceptance or granting of the benefit (= consent). You must request the approval from the RC department without being prompted to do so and without delay. If this is not possible for practical reasons (the spontaneous acceptance of a gift or an invitation, for example), you must decide accordingly on your own and request the subsequent approval of the acceptance or granting of the benefit without delay. If the subsequent approval is not provided, the object must be returned or the benefit must be refunded. The approval is to be requested by email (please send your email to rc@dakks.de).

⁶ The stated value limits are gross sums.

	Guideline		Document no.
	Anti-corruption guideline for external parties		RI-011EN
			Revision
		Page:	7/13

The benefit must be described with the provision of its estimated value. The occasion on which the benefit was granted and/or accepted, the provider of and recipient of the benefit and the date of the gift must also be stated. The RC department can request further information from the applicant and attach conditions to the approval. The RC department generally expressly issues an approval for each individual case by electronic means. The approval is particularly likely to fail if there is a risk that an impression of bias or corruption could exist or if third parties (such as competitors) could be placed at a disadvantage.

4.2.2 Exception: Tacit approval without notification obligation regardless of the value of the benefit

Irrespective of the specific value of the benefit, in the following cases, it is to be assumed that **tacit approval** will be provided:

- **Minor services** which ease or speed up the completion of a business meeting (collecting people from an airport or station by car, for example).
- Attending⁷ **hospitality** events held by customers, business partners or other third parties on the occasion of business dealings if they are considered to be **customary and of reasonable scale**. This does not apply if the hospitality is of a not insignificant value in terms of its type and scope, whereby in the individual case, the standard is also oriented to the official function of the employee.

Customary and reasonable hospitality can generally be assumed in the following cases:

- Hospitality with non-alcoholic drinks and small snacks (such as coffee, tea, water, biscuits, sandwiches)
- Invitation to lunch at a canteen or to a comparable lunch (for example, simple catering)

Trips to restaurants are not under any circumstances considered as tacit approval and must be notified at all times if their value exceeds 10 EUR.

Invitations to an **evening meal** at a restaurant within the temporal and factual context of government decisions are not generally to be considered to be customary and reasonable.

If benefits are granted that have the **objective of bringing about a certain decision** (for example, a positive evaluation in the scope of an appraisal) or as an expression of **thanks** for such a decision, the tacit approval does not apply. Benefits which are motivated in such a way **are prohibited irrespective of their value**.

If the conditions for the issuing of the tacit approval are fulfilled, regardless of the specific value of the benefit, there is **no notification obligation**.

The tacit approval can be withdrawn in individual cases. The **withdrawal** of the approval takes place if the acceptance of such benefits could create an impression of preference for an individual or bias.

⁷ The same applies to hospitality which is granted to customers, business partners or other third parties on the occasion of business dealings.

	<h2 style="color: red;">Guideline</h2>	Document no.	
		RI-011EN	
	<h3 style="color: red;">Anti-corruption guideline for external parties</h3>	Revision	1.0
	Page:	8/13	

4.3 Testing criteria

With certain benefits, the customary value limits are quickly exceeded. In the case of the granting of multiple benefits within a brief period of time, the value limits can be exceeded very quickly. In the individual case it can nonetheless be admissible to accept or grant the benefit if it does not create an impression of influence.

In addition to this, it is frequently necessary to make a spontaneous decision as to whether a gift or another benefit is accepted or granted.

For every planned exceeding of the value limits in the individual case, it is necessary to obtain the prior approval of the RC department. The RC department can attach conditions to its approval. If it is not possible to provide prior approval for practical reasons (the spontaneous acceptance of a gift, for example), you must decide accordingly on your own and request the subsequent approval of the acceptance or granting of the benefit without delay. If the subsequent approval is not provided, the object must be returned or the benefit must be refunded.

We therefore wish to provide you with some of the criteria which you should consider to verify the question of whether you should accept or grant a benefit. These are the criteria on the basis of which the RC department verifies whether an approval can be issued in an individual case or not. Information is also provided on the cases in which the acceptance or granting of a benefit can be critical and you could therefore expose yourself to a risk of criminal prosecution and/or the questions you should ask yourself so that you are able to make the correct decision.

- **Objective of the transaction**

Verifying questions:

Is the benefit granted in the expectation of an association with work-related tasks? Does it have the purpose of exerting an undue influence?

If yes: critical

- **Position of the beneficiary**

Verifying questions:

Is the beneficiary an office holder?

What is the function / tier / salary group of the addressee?

Gifts to office holders are generally to be classified as critical.

As regards the tier, the following generally applies: The higher the beneficiary is in the tier, the more acceptable their participation in an event or acceptance of an invitation, because they can serve representational purposes.

	Guideline		Document no.
	Anti-corruption guideline for external parties		RI-011EN
			Revision: 1.0
		Page: 9/13	

- **In the case of invitations: Presence of the person who issued the invitation**

Verifying question:

Is the person who issued the invitation or their designated representative present at the event?

If no: critical

The event can only serve the purpose of customer care or a professional discussion with the presence of the person who issued the invitation / a representative. Straightforward gifts such as vouchers for restaurants, sports events or cultural events are to be waived.

- **The relationship between the benefactor and beneficiary and the time of the gift.**

Verifying questions:

Do particular professional points of contact exist between the participants?

Is a decision about an accreditation request pending, for example?

Benefits which are granted in the temporal and factual context of governmental decisions are generally to be classified as problematical. In particular, this encompasses benefits which are granted in the scope of an appraisal or in the context of an AkA decision because they are granted in the immediate run-up to a governmental decision. Therefore, benefits which are offered in the scope of appraisals or in the context of AkA decisions may not generally exceed the value limits stated under 4.2.1 to which tacit approval applies (i.e. up to 10 EUR tacit approval and no notification obligation, up to 25 EUR tacit approval and notification obligation, over 25 EUR no approval possible). The exceptions are detailed under 4.2.2. If benefits are granted that have the **objective of bringing about a certain decision**

(for example, a positive evaluation in the scope of an appraisal), or as an expression of **thanks** for such a decision, **they are prohibited regardless of their value.**

Particularities which apply in the context of benefits in foreign countries are addressed under 5.1.

- **Approach and method of the offer and the acceptance**

Please note:

Invitations to events which accept the invited person as the representative of their company are generally considered harmless if the internal coordination and approval is documented and communicated on a sufficiently transparent basis.

In the case of invitations to events, anniversary parties etc. it may be advisable to coordinate with other office holders (staff from public authorities issuing authorisation, for example) and to take a uniform approach.

Invitations and gifts sent to private addresses and/or given in secret cannot be accepted under any circumstances.

	Guideline	Document no.	
		RI-011EN	
	Anti-corruption guideline for external parties	Revision	1.0
		Page:	10/13

- **The type of benefit**

Verifying questions:

How close to the business purpose is the benefit?

What is the type of benefit?

Invitations to events, for example, are not generally worthy of complaint as long as the orientation of the event is very clearly of a professional nature. Invitations to luxurious events with no professional relevance may not be issued and/or accepted. Invitations to accompanying persons are furthermore generally to be classified as critical. The question of whether the invitation is at an acceptable social level also depends on the standards of the person who is invited.

- **The value of the benefit**

Please note:

In German-speaking countries, one-off gifts or other benefits that have a value of up to 25 EUR are generally to be classified as non-critical (refer to the details in the approval obligation).

- **Number of benefits**

Please note:

The more benefits to be granted or accepted, the more critical the classification of the benefits. Therefore, in the case of several invitations, gifts or other benefits within a short period of time, individual services which do not reach a value of 25 EUR can be problematical.

For **appraisals lasting several days** this therefore means: All benefits which are granted in the context of appraisals in the scope of an appraisal phase are to be added up and may not exceed the total value limit of 25 EUR. Insofar as this value limit is exceeded in the individual case, the process which is detailed under Section 4.2.1 applies. Exceptions can apply for some cases of hospitality and minor services, these are detailed under 4.2.2. Particularities also apply in foreign countries(refer to 5.1).

	Guideline	Document no.		
		RI-011EN		
	Anti-corruption guideline for external parties	Revision	1.0	
		Page:	11/13	

5 PARTICULARITIES

5.1 Benefits in foreign countries

In foreign countries, under certain circumstances, rejecting a gift or an invitation offered to a visitor may be inadvisable. In many cultures, this would be considered to be rude. In such a case, it can therefore be advisable for you to accept the gift or other benefits even if the value limit of 25 EUR is exceeded. In such cases, you are obliged to provide notification of having accepted the gift to the RC department without being prompted to do so and without delay (see above). The private use of the gifts is generally to be avoided. The RC department will decide on the use of gifts in the individual case. In the case of expensive gifts, for example, it may be possible for them to be put out to a charitable raffle and for the proceeds to be donated to a good cause.

As stated above, when conducting business in a third country, you must remember that the DAkkS is in competition with other accreditation bodies, which means that in this case, you aren't only subject to a risk of prosecution as a recipient, but also as the person who grants the benefits. Please further note that in foreign countries, it is possible that you may not be able to determine whether the person to whom you grant the benefit is to be classified as an office holder or not. In addition to this, in foreign countries there may also be stricter legal regulations regarding the handling of benefits which then take precedence.

5.2 Business trips

In the scope of the completion of the appraisals, accommodation and travel arrangements are to be booked and invoiced according to the standards of the otherwise valid legal provisions and the travel costs guideline for external assessors.

If a customer who is anyway covering the travel costs offers to book travel and accommodation the booking can be completed by the customer if the accommodation / travel which is booked corresponds with the legal provisions and the travel costs guideline for external assessors. In this case, the net price following the deduction of possible customer discounts is relevant.

If the customer books accommodation (such as a luxury hotel) or travel (such as business class) which does not comply with the relevant provisions, this can be assessed as an inadmissible benefit.

It is up to you to verify whether the accommodation / travel complies with the relevant provisions or whether possible benefits have been granted and to what extent. You must provide notification of any benefits according to the criteria detailed under 4.3.

As regards the offer of a business partner/customer to be collected by car from a station or airport, refer to the regulation under 4.2.2.

	<h2 style="color: red;">Guideline</h2>	Document no.	
		RI-011EN	
	Anti-corruption guideline for external parties	Revision	1.0
	Page:	12/13	

5.3 Other regulations which are to be complied with in the context of benefits

5.3.1 Taxation of benefit in kind

The acceptance of benefits can also mean that the benefit in kind must be subjected to taxation. This can be the case, for example, if the possibilities of taxation according to Section 27b, Income Tax Act (EStG) did not exist or were not used by the benefactor, and the benefit (such as the value of a gift) must be reported when determining the income of the recipient.

5.3.2 No entitlement to a daily allowance

It is also necessary to remember that according to Section 3, para. 2, Travel Costs Act (BRKG), payments which the business traveller receives from a third party on the occasion of a business trip are to be credited to the travel expenses allowances. This means that for **governmental business** there is no entitlement to the full daily allowance if external parties are invited by a third party (invitation to a meal as part of an appraisal, for example). The background to this regulation is the anti-corruption concept, according to which office holders may not generally accept any benefits. If benefits are nonetheless accepted in the individual case, the invited office holder should not be able to benefit from receiving an allowance in addition to the invitation.

6 CONTACT PARTNER

If you have any questions about the acceptance or granting of benefits, you want to provide notification of the acceptance or granting of a benefit, or you want to provide notification of your suspicion of an illegal case of corruption, please contact the following **contact partners**:

Phone: +49 (0)30 670591-48

Fax: +49 (0)30 670591-90

rc@dakks.de

7 APPLICABLE DOCUMENTS

Annex 1 of this Guideline „Notification of the acceptance or granting of minor benefits“

Notification of the acceptance or granting of minor benefits

Annex 1 to the Anti-corruption Guideline for external parties in the otherwise valid version

To : Department of Law & Compliance (rc@dakks.de)

Current no.	Quantity	Type of benefit, framework conditions (for example, time proximity to decisions, etc.):	Occasion:	Estimated value in EUR (gross)	Date (received and/or granted on:)	Received and/or granted on:
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						

Name:

Date: