PREFACE

The ATAD has opened a new chapter in the development of EU tax law. As part of an anti-tax avoidance package for fairer, simpler and more effective corporate taxation in the EU, it aims both to implement international commitments of EU Member States from the G20/OECD BEPS project and to take a big step towards harmonisation of national responses to aggressive tax planning. This has resulted in a paradigm shift in EU tax legislation – away from the removal of obstacles to the internal market to the creation of such obstacles – which leads to numerous practical difficulties with respect to, more generally, establishing the ATAD’s position in the EU legal order, and, more specifically, understanding its relationship to existing Court of Justice precedents regarding tax avoidance structures. Elaborating on these contextual difficulties for the ATAD’s application, the first part of this book (Chapters 1–3) offers a timely expert analysis and proposals for the resolution of such problems.

Member States had to transpose the ATAD into national law by 1 January 2019 and an important extension of its scope to cover many hybrid situations by 1 January 2020. The ongoing implementation process has shown that Member States take advantage of different options granted to them in the Directive, resulting in additional disparities beyond inevitable differences of interpretation of mandatory provisions. The challenges of a correct understanding of the demands the ATAD puts on national legislatures and taxpayers, on the one hand, and the different options available to Member States, on the other hand, are addressed for each of the five ATAD norms in the second part of this volume (Chapters 4–9).

Finally, the third part of this book (Chapters 10–13) reviews ATAD’s relationship to current and future developments in EU tax law, focusing on three key issues: dispute resolution, exchange of information, and the possible introduction of a common corporate tax base (CCTB) in the EU.