



How the EU Taxonomy has (fossil) fuelled aviation

September 2026

Executive summary

The rapid growth of the aviation sector, alongside a lack of decarbonisation options, means aviation is expected to be responsible for 90% of the EU's transport emissions in 2050.¹ The sector is uniquely reliant on fossil fuels and there is no net zero aligned policy for the sector. In this context, it is critical to put in place incentives for investors to invest in truly sustainable solutions to decarbonise the sector, and alternatives to flying.

In the EU, this is the role that is meant to be played by the EU Taxonomy. It is intended to reorient capital flows towards sustainable investment by providing a credible, science-based classification of environmentally sustainable economic activities.

However, new analysis by independent research consultancy, CE Delft, commissioned by Opportunity Green, demonstrates that the Taxonomy's aviation technical screening criteria (TSC)² are not achieving that purpose in practice. Together with the issues exposed by *Dryade and Others v Commission*³ and *Dassault Aviation v Commission*, demonstrates a fundamental flaw in the Taxonomy: rather than distinguishing genuinely transitional activities from business-as-usual investment, it grants Taxonomy alignment to conventional, carbon-intensive aviation activities, directing sustainable capital towards them.

Where there is no conclusive scientific evidence that activities in the aviation sector satisfy the standards of the Taxonomy Regulation, the answer should not have been to lower the threshold so that some activity within the sector can nevertheless qualify. In this case, “something” is not necessarily better than “nothing”: directing investment towards activities that are not truly sustainable risks reinforcing the very climate harms that the Taxonomy is intended to help address. Going through the multiple legal cases and the research around the aviation criteria it becomes clear that the European Commission wanted to ensure there was a way for aviation to fit into the taxonomy, rather than ensure that truly sustainable aviation pathways were supported. The aviation taxonomy criteria need a wholesale revision.

¹ European Commission, 'Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/87/EC and Decision (EU) 2015/1814 as regards driving competitiveness and cost-effective decarbonisation' COM(2026) 616 final (17 July 2026) 5, online at: https://eur-lex.europa.eu/resource.html?uri=cellar:757bd24a-8413-11f1-bf5e-01aa75ed71a1.0001.02/DOC_1&format=PDF accessed 16 September 2026.

² The technical screening criteria (TSC) are the detailed criteria set by the European Commission that specify the conditions an economic activity must meet to qualify as Taxonomy-aligned.

³ In 2024, three environmental NGOs, Dryade, Fossielvrij NL and Protect Our Winters Austria (supported by Opportunity Green), brought proceedings before the CJEU challenging the Commission's aviation TSC adopted under Delegated Regulation (EU) 2023/2485. The litigation does not challenge the inclusion of aviation as a transitional sector in principle. Rather, it argues that the Commission unlawfully classified conventional fossil-fuel aviation activities as Taxonomy-compliant despite their failure to satisfy the Taxonomy Regulation's requirements. The challenge concerns the TSC governing aircraft manufacturing (s. 3.21), aircraft leasing (s. 6.18), and passenger and freight air transport (s. 6.19).

New research by independent research consultancy, CE Delft, found that the EU Taxonomy is materially more generous toward aviation than toward any other industrial sectors. As identified by CE Delft, “where alignment in other sectors requires a genuine change in what is invested in, aviation's criteria appear calibrated around investments that would have been undertaken regardless: routine fleet renewal through the acquisition of new, more fuel-efficient fossil-fuelled powered aircraft.”⁴

The aviation sector is an exceptional outlier: it was the only one of 115 sectors examined in which more than half of total CapEx was classified as aligned transitional expenditure, with virtually 100% of its aligned CapEx classified as transitional. Given that the aviation sector is the one sector where emissions are rising most rapidly in Europe, the fact that more than half of airlines' expenditure are Taxonomy-aligned shows that the aviation criteria are overly permissive.

In 2025, 52.8% of reported airline capital expenditure (CapEx) was classified as Taxonomy-aligned. Yet almost all of this – 52.67% of total CapEx (€9.5 billion) – was classified as transitional expenditure: a subset of sustainable activities in sectors where low-carbon alternatives are not yet available, subject to meeting the strict cumulative requirements of Article 10(2) and Article 3 of the Taxonomy Regulation.⁵ Despite this classification, however, this expenditure predominantly comprised investments in new fossil-fuel-powered aircraft and aircraft maintenance, while just 0.13% (€24 million) related to genuinely sustainable activities, mainly electric ground handling equipment.

This new data about the practical impact of the Taxonomy in the aviation sector reflects precisely the problem at the heart of the ongoing legal challenge⁶ to the aviation TSC: conventional fossil-fuel aviation activities are wrongfully being classified as transitional despite failing to satisfy the Taxonomy's stringent requirements. The present TSC give largely business-as-usual expenditure a “stamp of approval”, rather than reorienting capital towards genuinely sustainable investment. In particular, they:

- create greenwashing and misleading market signals by classifying conventional fossil-fuel aviation activities as Taxonomy-aligned;
- risk locking in carbon-intensive assets by directing sustainable finance towards long-lived fossil-fuel aircraft which typically spend more than 30 years in operation; and
- fail to give proper effect to the Do No Significant Harm (DNSH) requirement and the requirement that TSC be based on conclusive scientific evidence and the precautionary principle.

⁴ Louis Leestemaker et al., *Who Benefits from Free Allocation in Aviation? Impact on Airlines, Decarbonisation and the Internalisation of External Costs* (CE Delft 2026) 19, online at: https://opportunitygreen.org/wp-content/uploads/2026/09/CE_Delft_Who_benefits_from_free_allocation_in_aviation.pdf accessed 12 August 2026.

⁵ Transitional activities are defined as a subset of sustainable activities in sectors where low-carbon alternatives are not yet available and must meet the strict cumulative requirements of Articles 10(2) and 3 of the Taxonomy Regulation.

⁶ *Dryade and Others v Commission* (see footnote 3).

Legal cases and aviation TSC revisions

These concerns have become even more pressing in light of two recent developments:

- First, the Commission's proposed revisions to the aviation TSC in March 2026 (and scheduled to be adopted in the third quarter of 2026) would extend the period during which fossil-fuel aircraft meeting efficiency requirements are considered Taxonomy-aligned and delay incentives for more sustainable alternatives.
- Second, the General Court's judgment in *Dassault Aviation v Commission* opens the possibility of business aircraft (i.e. private jets) manufacturing being included in the TSC, highlighting the continuing incoherence in the treatment of aviation under the Taxonomy.

Taken together, the new CE Delft evidence, the ongoing legal challenge, the Commission's proposed revisions and the *Dassault* judgment point to a broader problem: an overly permissive approach to transitional activities that turns the Taxonomy from a tool for reorienting capital towards genuinely sustainable investment into a means of wrongfully certifying largely business-as-usual, highly polluting aviation activities as consistent with a 1.5°C-aligned transition to climate neutrality. Restoring the Taxonomy's credibility therefore requires a return to its original purpose and a much more rigorous application of its requirements for transitional activities.

Recommendations

As such, the Commission must:⁷

- Ensure all aviation activities included in the Taxonomy are in line with a credible 1.5°C pathway and the Paris Agreement,
- Exclude fossil-fuel aircraft from the Taxonomy as they do not satisfy the Taxonomy Regulation's cumulative requirements,
- Avoid further delaying the transition by extending existing deadlines for fossil-fuel aircraft or delaying Taxonomy alignment for aircraft capable of operating on 100% SAF and synthetic aviation fuels,
- Strengthen sustainability criteria for aviation fuels and prioritise scalable, sustainable pathways, including synthetic fuels such as e-SAF and alcohol-to-jet fuels,
- Reform the treatment of SAF to ensure Taxonomy alignment reflects airlines' actual sustainable expenditure and does not allow limited SAF use to be concentrated on selected aircraft, and
- Ensure that TSC are firmly grounded in conclusive scientific evidence, life-cycle assessment, and adhere to the precautionary principle.

⁷ For the full set of recommendations, see the end of this briefing.

The central purpose of the EU Taxonomy Regulation is to “reorient capital flows towards sustainable investment”⁸ by providing investors and financial markets with a credible, science-based classification of environmentally sustainable economic activities, thereby directing capital towards investments that align with the EU's legally binding 2050 climate neutrality objective under the European Climate Law (Regulation (EU) 2021/1119).

To operationalise this objective, the Taxonomy permits certain economic activities to be classified as Taxonomy-aligned where they substantially contribute to at least one of the Taxonomy's six environmental objectives (see figure 1), do no significant harm (DNSH) to the others, and meet the applicable technical screening criteria (TSC).

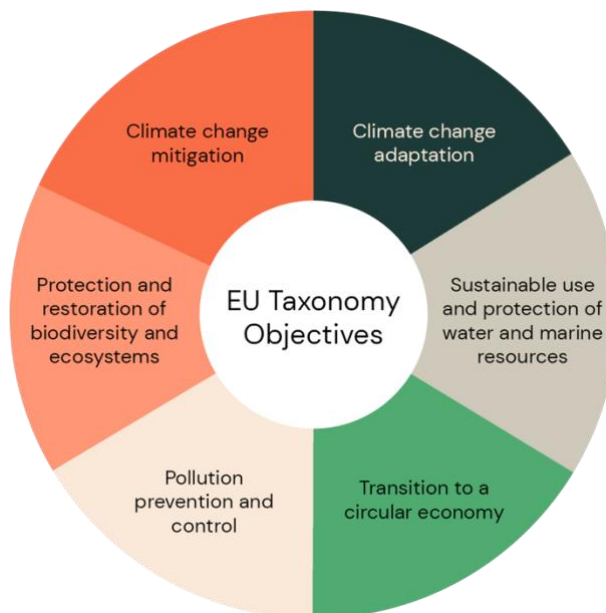


Figure 1: Objectives of the EU Taxonomy

Importantly, Taxonomy-aligned activities can include:

- Sustainable activities: activities that fully meet the requirements for Taxonomy alignment.⁹
- Transitional activities: a subset of sustainable activities in sectors where low-carbon alternatives are not yet available.¹⁰

⁸ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment and amending Regulation (EU) 2019/2088 [2020] OJ L 198/13, recital 6, online at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020R0852> accessed 12 August 2026.

⁹ Louis Leestemaker et al., *Who Benefits from Free Allocation in Aviation? Impact on Airlines, Decarbonisation and the Internalisation of External Costs* (CE Delft 2026) 26, online at: https://opportunitygreen.org/wp-content/uploads/2026/09/CE_Delft_Who_benefits_from_free_allocation_in_aviation.pdf accessed 12 August 2026.

¹⁰ Ibid, 21.

The issues highlighted in this briefing relate primarily to the Commission's treatment of aviation *transitional* activities under the Taxonomy, which are activities for which low-carbon alternatives are not yet technologically and economically feasible, but may nevertheless qualify as Taxonomy-aligned where they satisfy the stringent conditions under the Taxonomy Regulation, as operationalised through the aviation technical screening criteria (TSC). These strict and cumulative requirements include:

- Consistency with a 1.5°C pathway (Article 10(2)(a));
- Greenhouse gas emissions corresponding to the best performance in the sector (Article 10(2)(b));
- No hampering on the development and deployment of low-carbon alternatives (Article 10(2)(c));
- No lock-in of carbon-intensive asset, taking into account asset lifetime (Article 10(2)(d));
- Compliance with the do no significant harm (DNSH) principle in Article 17 (Article 3(b));
- Compliance with the minimum safeguards in Article 18 (Article 3(c));
- Compliance with the TSC established by the Commission (Article 3(d)), which must, among other things, be based on “conclusive scientific evidence and the precautionary principle” (Article 19(f)).

None of these criteria are met when fossil-fuel powered aircraft are labelled as taxonomy aligned, as they currently are under the existing TSC.

Key legal and policy issues with the aviation Taxonomy

The Taxonomy Regulation's exacting standards are designed to guard against three main risks:

- **greenwashing** and false market signals;
- **lock-in and stranded assets**, particularly where long-lived carbon-intensive assets continue operating for decades; and
- classification of activities that cause significant environmental harm, contrary to the **do no significant harm (DNSH)** requirement.

The present aviation TSC made under the current Delegated Act (Regulation (EU) 2023/2485) give rise to each of these risks, thus undermining the Taxonomy's intended safeguards.

Greenwashing and false market signals

As stated in the Taxonomy Regulation, “greenwashing refers to the practice of gaining an unfair competitive advantage by marketing a financial product as environmentally friendly, when in fact basic environmental standards have not been met” (Recital 11). In the Taxonomy context, greenwashing arises where activities that are not genuinely sustainable can nevertheless be labelled as Taxonomy-aligned, giving investors and financial markets an inaccurate impression of their environmental performance. This can create false market signals, misdirecting capital towards activities that do not support the transition and potentially away from those that do.

In the aviation sector, greenwashing risks are particularly acute due to the extreme dependence of the sector on fossil fuels paired with the reliance of the industry on controversial approaches to decarbonise such as offsets and alternative fuels (so-called ‘Sustainable Aviation Fuels’).¹¹ The aviation industry has long portrayed its minimal efforts to decarbonise its activities as environmentally friendly,¹² and it can now refer directly to the Taxonomy to support such greenwashing. Two aspects of the present aviation TSC concerning investment in and operations of fossil-fuel powered aircraft are particularly illustrative of this:¹³

- First, to qualify as transitional, aircraft only need to exceed ICAO’s New Type fuel-efficiency standard by a specified threshold, ranging from 1.5% for long-haul to 11% for short-haul aircraft.¹⁴ Yet these thresholds are already met by the large majority of new commercial aircraft currently in production: between 90.4% and 99.7% of Airbus pending aircraft orders as of January 2023 would, under the present TSC, satisfy the relevant efficiency thresholds if delivered before 2032.¹⁵ Furthermore, the average new aircraft delivered in 2016 already met the ICAO’s 2028 standard, with the most advanced aircraft exceeding it by 10–20%.¹⁶ For most airlines, compliance with the Taxonomy therefore does not require a meaningful departure from standard fleet-renewal decisions. The TSC have therefore been effectively “made to fit the industry,” rather than designed to direct investment towards the level of performance required for the transition to climate neutrality.

¹¹ Alternative fuels present significant limitations around feedstock availability, opportunity costs and their true lifecycle emissions and biodiversity impacts, and the practice by airlines of offering carbon offsets as part of plane tickets has been found to be misleading by courts.

¹² Outside the Taxonomy context, *Fossielvrij v KLM* (2024) illustrates how airlines can greenwash their environmental claims. In that case, the Amsterdam District Court delivered the first greenwashing judgment against an airline, finding several of KLM’s environmental claims misleading and unlawful under Dutch law implementing the EU Unfair Commercial Practices Directive. The Court found, among other things, that KLM’s claims were insufficiently specific and painted an “overly rosy picture” on the benefits of SAF, CO₂ offsetting and emerging technologies, creating a misleading impression of the sustainability of flying.

¹³ Louis Leestemaker et al., *Who Benefits from Free Allocation in Aviation? Impact on Airlines, Decarbonisation and the Internalisation of External Costs* (CE Delft 2026) 65 (Annex B), online at: https://opportunitygreen.org/wp-content/uploads/2026/09/CE_Delft_Who_benefits_from_free_allocation_in_aviation.pdf accessed 12 August 2026.

¹⁴ *Ibid*, 65 (Annex B).

¹⁵ Peter Wiener et al., *Sustainable Finance Taxonomy for the Aviation Sector: Final Report* (Steer and Kestrel Verifiers 2021) 84 (Table 5.9, Annex A.16), online at: <https://op.europa.eu/en/publication-detail/-/publication/4f03764a-8540-11eb-af5d-01aa75ed71a1> accessed 3 September 2026; Transport & Environment, *T&E Analysis of EU Taxonomy Criteria for Aviation: Estimating the Taxonomy Compliance of Airbus and Some of Europe’s Biggest Airlines* (February 2023), online at: <https://uploads.transportenvironment.org/production/files/TE-analysis-aviation-taxonomy-February-2023.pdf> accessed 9 September 2026.

¹⁶ Dryade VZW, *Stichting ter Bevordering van de Fossielvrij-Beweging and Protect Our Winters Austria* (Case T-/24), Application for Annulment (General Court of the European Union, 27 August 2024) (unpublished), para. 115(b).

- Second, investments in conventional fossil-fuel-powered aircraft are subject to a replacement criterion intended to prevent Taxonomy alignment from encouraging global fleet growth.¹⁷ Where the replaced aircraft is permanently withdrawn, the new investment can be fully aligned; where it remains in service, alignment is limited by a global replacement ratio, which stood at 0.461 in 2024.¹⁸ This means that investment contributing to net fleet growth can still receive a partial Taxonomy-aligned label. Crucially, the TSC neither prescribe nor require disclosure of the data source or methodology for calculating the ratio, or provide a clear mechanism for verifying future commitments to withdraw aircraft,¹⁹ making it difficult to apply and independently verify contrary to Article 19(1)(k) of the Taxonomy Regulation.²⁰ Only a strict ‘one-in, one-out’ mechanism, requiring the permanent withdrawal of an aircraft for each new qualifying aircraft, can ensure that Taxonomy-aligned investment does not increase the global fleet.²¹ Yet this mechanism does not apply to aircraft manufacturing and can be avoided for leasing and freight activities by applying the replacement ratio instead.²²

These aspects of the Taxonomy, amongst others, significantly undermine its function as a credible guide for sustainable investment: conventional carbon-intensive aviation activities are presented to financial markets as Taxonomy-aligned despite continuing to contribute to climate change and environmental harm and delaying the economy-wide decarbonisation efforts needed to meet the EU’s 2050 target. It is precisely this risk that Article 19(1)(i) seeks to guard against, requiring the Commission, when setting TSC, “to take account of the risk of creating inconsistent incentives for investing sustainably.”

New analysis by CE Delft, commissioned by Opportunity Green, of airline expenditure illustrates this.²³

On Capital Expenditures (CapEx):

In 2025, 52.8% of reported airline capital expenditure²⁴ was classified as Taxonomy-aligned, yet only 0.13% of total capital expenditure (€24 million) related to genuinely sustainable activities, principally electric ground-handling equipment. The remaining 52.67% (€9.5 billion) consisted of transitional activities, despite predominantly comprising investment in new fossil-fuel-powered aircraft and aircraft maintenance (see figure 2).²⁵

¹⁷Louis Leestemaker et al., *Who Benefits from Free Allocation in Aviation? Impact on Airlines, Decarbonisation and the Internalisation of External Costs* (CE Delft 2026) 65 (Annex B), online at: https://opportunitygreen.org/wp-content/uploads/2026/09/CE_Delft_Who_benefits_from_free_allocation_in_aviation.pdf accessed 12 August 2026.

¹⁸ Ibid.

¹⁹ Dryade VZW, *Stichting ter Bevordering van de Fossielvrij-Beweging and Protect Our Winters Austria* (Case T-/24), Application for Annulment (General Court of the European Union, 27 August 2024) (unpublished), paras. 101-104.

²⁰ Ibid.

²¹ Ibid, paras. 123-126.

²² Ibid, paras. 123-126.

²³ Louis Leestemaker et al., *Who Benefits from Free Allocation in Aviation? Impact on Airlines, Decarbonisation and the Internalisation of External Costs* (CE Delft 2026), online at: https://opportunitygreen.org/wp-content/uploads/2026/09/CE_Delft_Who_benefits_from_free_allocation_in_aviation.pdf accessed 12 August 2026.

²⁴ Taxonomy-eligible expenditure (CapEx) refers to capitalised expenditure associated with the purchase of aircraft, aircraft maintenance and ground-handling equipment: Louis Leestemaker et al, *Who Benefits from Free Allocation in Aviation? Impact on Airlines, Decarbonisation and the Internalisation of External Costs* (CE Delft 2026) 23, online at: https://opportunitygreen.org/wp-content/uploads/2026/09/CE_Delft_Who_benefits_from_free_allocation_in_aviation.pdf accessed 12 August 2026.

²⁵ Ibid, 5 (Text Box 1). The data for CapEx (shown in figure 2) covers eight of thirteen European listed airlines that made EU Taxonomy disclosures for FY2025. Air France-KLM, Croatia Airlines, Lufthansa and IAG reported aligned CapEx; Ryanair and Norwegian Air

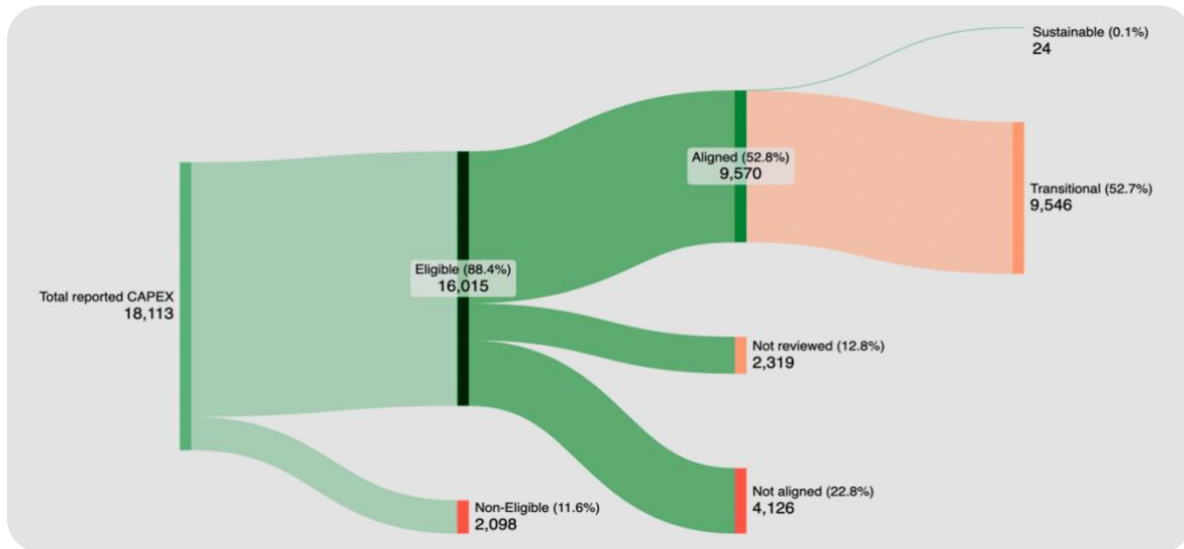


Figure 2: Breakdown of European airlines' reported CapEx under the EU Taxonomy (2025), mln. €'s. (Source: LSEG)

These figures demonstrate how the present TSC creates false market signals by granting largely business-as-usual expenditure on conventional fossil-fuel aviation a “green stamp of approval,” while virtually none of airlines' aligned CapEx is directed towards genuinely sustainable activities.

This over-inclusion of non-transitional aviation activities fundamentally goes against the object and purpose of the Taxonomy Regulation. Where there is no conclusive scientific evidence that an activity satisfies the Taxonomy Regulation, the answer is not to lower the threshold so that some activity within the sector can nevertheless qualify. In this case, “something” is not necessarily better than “nothing”: directing investment towards activities that are not truly transitional risks reinforcing the very climate harms that the Taxonomy is intended to help address.

On Operational Expenditures (OpEx):

The treatment of operational expenditure (OpEx)²⁶ under the Taxonomy also provides a misleading picture on sustainable airline expenditure.

reported eligible CapEx but did not assess alignment. EasyJet, SAS and Wizz Air were among the non-reporting airlines (see also page 62 (Table 12) for the full breakdown of reported 2025 CapEx by airline group).

²⁶ Taxonomy-eligible operational expenditure (OpEx) refers to direct, non-capitalised costs associated with qualifying aircraft operations, including maintenance, repair, short-term leases and day-to-day servicing costs: Louis Leestemaker et al, *Who Benefits from Free Allocation in Aviation? Impact on Airlines, Decarbonisation and the Internalisation of External Costs* (CE Delft 2026) 28, online at: https://opportunitygreen.org/wp-content/uploads/2026/09/CE_Delft_Who_benefits_from_free_allocation_in_aviation.pdf accessed 12 August 2026.

In 2025, 30.4% of reported airline OpEx – €4.3 billion – was classified as Taxonomy-aligned, and all of it as transitional expenditure (see figure 15). The bulk comprised non-capitalised maintenance expenditure, alongside repair, short-term leasing and day-to-day servicing costs. By contrast, expenditure on SAF itself (albeit with important sustainability and scalability limitations as discussed below)– a direct cost of reducing the emissions associated with operating aircraft – is excluded from Taxonomy-eligible OpEx (see figure 3).²⁷

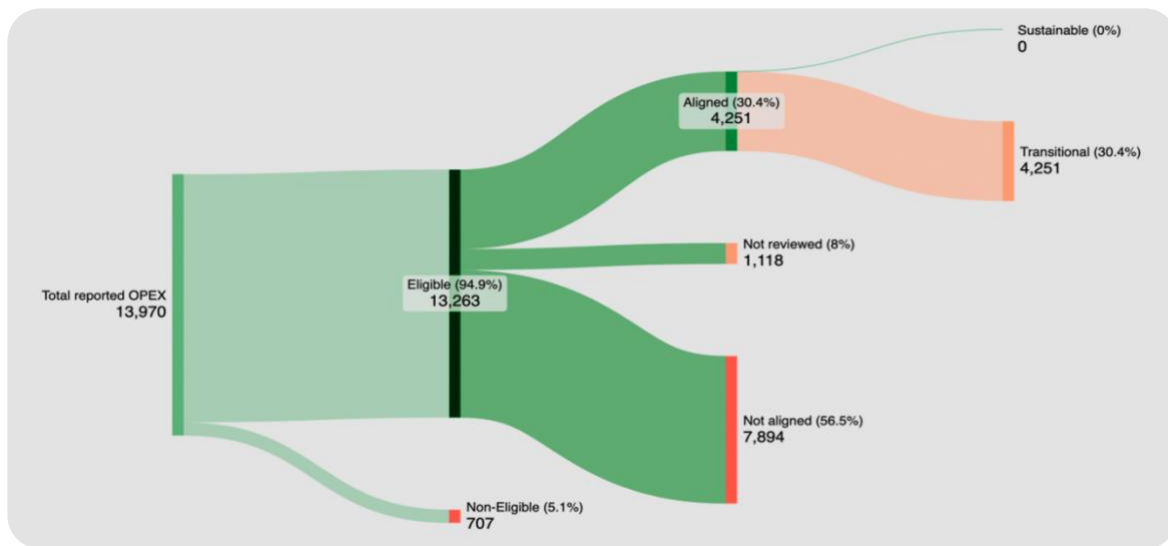


Figure 3: Breakdown of European airlines' reported OpEx under the EU Taxonomy (2025), mln. €'s. (Source: LSEG)

Crucially, the way transitional OpEx is calculated, particularly in relation to SAF compliance, creates a significant disconnect between reported alignment and airlines' actual sustainable expenditure.

For fossil-fuel-powered aircraft, an aircraft can be Taxonomy aligned under one of the TSC based on a minimum requirement of SAF use. The relevant TSC began at a baseline of 5% in 2022, and required a minimum 11% SAF share in 2025, continuing to increase by two percentage points each year.²⁸ However, compliance is not determined by the fuel physically used by individual aircraft. Instead, the amount of SAF purchased at fleet level is divided by the total fuel consumed by the aircraft designated as compliant.²⁹ Airlines can therefore attribute their entire fleet-level SAF purchases to a selected subset of aircraft, irrespective of whether those aircraft actually operated on that SAF.³⁰ As CE Delft

²⁷ Ibid, 28. The data for OpEx (shown in figure 3) covers the same eight European listed airlines that made EU Taxonomy disclosures for FY2025. Air France-KLM, Lufthansa, IAG and Croatia Airlines reported aligned OpEx, all of which was classified as transitional; Ryanair and Norwegian Air reported eligible OpEx but did not assess alignment. Aegean Airlines and Icelandair assessed their eligible OpEx but reported no aligned expenditure. EasyJet, SAS and Wizz Air were among the non-reporting airlines (see also page 63 (Table 13) for the full breakdown of reported 2025 OpEx by airline group).

²⁸ Ibid, 66 (Annex B).

²⁹ Ibid.

³⁰ Ibid.

states, the criterion therefore measures a “financial and administrative ratio rather than the actual fuel composition of individual flights”.³¹

For example, 200 tonnes of SAF would represent only 2% of the fuel consumed by a 100-aircraft fleet using 10,000 tonnes in total. Yet if allocated to 10 aircraft consuming 1,000 tonnes, the same SAF purchase would produce a 20% compliance ratio, enabling those aircraft and their associated eligible OpEx to qualify as Taxonomy-aligned despite the aircraft not necessarily having physically used that SAF.

This allocation mechanism allows airlines to concentrate the Taxonomy benefit of limited SAF use on a subset of their fleet, enabling the associated maintenance and other eligible operating costs to be reported as aligned. Yet airlines have limited influence over the specific flights or aircraft on which SAF is physically used, making an even distribution of SAF use across the fleet a more accurate basis for assessing alignment should the current framework be maintained.⁶ The resulting distortion is compounded by the fact that SAF use can make otherwise ordinary operating costs Taxonomy-aligned, while expenditure on the SAF underpinning that alignment under the current framework is itself excluded from eligible OpEx.⁷ As IAG observes, the resulting OpEx reporting therefore “does not reflect the economic reality of operating a taxonomy-aligned asset”.⁸

More fundamentally, however, the Commission should reconsider whether SAF blending is an appropriate basis for classifying conventional aircraft operating costs as transitional at all, particularly where SAF relies on feedstocks associated with significant sustainability risks and scalability constraints, including food and feed crops, used cooking oil, and animal fats.³² Rather than using SAF blending to make business-as-usual OpEx Taxonomy-aligned, the Taxonomy should instead strictly recognise purchases of synthetic fuels such as e-SAF as eligible OpEx, counting only the additional cost relative to fossil kerosene.³³ This would more directly link Taxonomy alignment to genuine sustainable expenditure while providing stronger incentives for scalable e-SAF pathways that currently struggle to reach commercial deployment.

Taken together, the current approach risks significantly overstating sustainable airline OpEx and creating a clear risk of greenwashing.

³¹ Ibid.

³² Opportunity Green, ‘Response to the Consultation on the Draft Act for the Review of the EU Taxonomy Environmental Delegated Act’ (14 April 2026) (unpublished), 8.

³³ Louis Leestemaker et al., *Who Benefits from Free Allocation in Aviation? Impact on Airlines, Decarbonisation and the Internalisation of External Costs* (CE Delft 2026) 54, online at: https://opportunitygreen.org/wp-content/uploads/2026/09/CE_Delft_Who_benefits_from_free_allocation_in_aviation.pdf accessed 12 August 2026.

The false market signals identified above can have long-term consequences by directing finance towards conventional aircraft and thereby locking in carbon-intensive assets for decades. This risk is expressly identified in the Taxonomy Regulation, which refers to “harmful lock-in effects”³⁴ and the danger of assets becoming “stranded”.³⁵ Under Article 10(2), a transitional activity must, among other cumulative requirements, support a transition consistent with a pathway limiting temperature rise to 1.5°C, not hamper the development and deployment of low-carbon alternatives, and “not lead to a lock-in of carbon-intensive assets, considering the economic lifetime of those assets.”

These requirements are especially significant for aviation because aircraft are long-lived assets. As such, directing sustainable finance towards conventional aircraft today can lock-in fossil-fuel-dependent technology for 25–30 years or more.³⁶ Aircraft financed or manufactured pursuant to the present TSC may therefore remain operational around or beyond 2050, which would be inconsistent with the EU's 2050 climate neutrality objective. Indeed, the International Council on Clean Transportation has shown that all new aircraft from 2032 (or 2037 under the most optimistic scenario) would need to produce zero net CO₂ emissions over their lifetime for aviation to achieve net zero.³⁷ On that basis, the EU's long-term temperature objectives require immediate and substantial investment in zero-emission aircraft rather than continued investment in current fossil fuel-powered and GHG-emitting ones.

As such, the lock-in concern operates in two related ways that are inconsistent with Article 10(2):

- First, investment in conventional aircraft prolongs the economic life of carbon-intensive technology, thus breaching the prohibition on carbon lock-in.
- Second, allocating sustainable finance to those aircraft diverts capital away from the development and deployment of genuinely low-carbon alternatives – including zero-emission aircraft and the technologies and fuels necessary to scale them – thus breaching the prohibition on hampering low-carbon alternatives.

CE Delft's report places the risk of lock-in in aviation in a broader context by comparing expenditure in the aviation sector with other industrial sectors. The findings show the extent to which the aviation TSC are particularly favourable to the conventional aircraft industry:³⁸

³⁴ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment and amending Regulation (EU) 2019/2088 [2020] OJ L 198/13, recital 39, online at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020R0852> accessed 12 August 2026.

³⁵ Ibid, Article 19(1)(i).

³⁶ Dryade VZW, Stichting ter Bevordering van de Fossielvrij-Beweging and Protect Our Winters Austria (Case T-/24), Application for Annulment (General Court of the European Union, 27 August 2024) (unpublished), para. 120.

³⁷ Supraja N Kumar and Dan Rutherford, ‘Lifetime Emissions from Aircraft under a Net-Zero Carbon Budget’ (International Council on Clean Transportation, July 2024) 13 (Annex A.23), online at: https://theicct.org/wp-content/uploads/2024/07/ID-188-%E2%80%93-Committed-emissions_wp_final.pdf accessed 9 September 2026.

³⁸ Louis Leestemaker et al., *Who Benefits from Free Allocation in Aviation? Impact on Airlines, Decarbonisation and the Internalisation of External Costs* (CE Delft 2026) 5 (Text Box 1), online at: https://opportunitygreen.org/wp-content/uploads/2026/09/CE_Delft_Who_benefits_from_free_allocation_in_aviation.pdf accessed 12 August 2026.

- The aviation sector reports both one of the highest shares of Taxonomy-eligible CapEx and an unusually high conversion of eligible expenditure into aligned CapEx. This contrasts with sectors such as automobile and truck manufacturing, which have similarly high levels of Taxonomy eligibility but convert a smaller proportion of eligible expenditure into Taxonomy-aligned investment (see figure 4).³⁹ This demonstrates that aviation companies are able to label almost all their capital expenditures as aligned with the taxonomy, even though they are just business as usual purchases. This is in contrast to the automotive sector, for example, where the criteria are strict enough that only truly sustainable expenditure can be classified to meet the criteria and business as usual expenditure is excluded from being taxonomy compliant.
- Most strikingly, aviation is the only one of 115 industry sectors examined in which more than 50% of total CapEx is classified as an aligned transitional activity. Moreover, unlike other sectors with significant aligned investment, where alignment includes a meaningful shift towards sustainable activities, aviation's aligned CapEx is almost 100% transitional and predominantly comprises of long-lived fossil-fuel-powered aircraft acquisitions that comply with the taxonomy's procedural criteria but are not zero-emission by design (see figure 5).⁴⁰

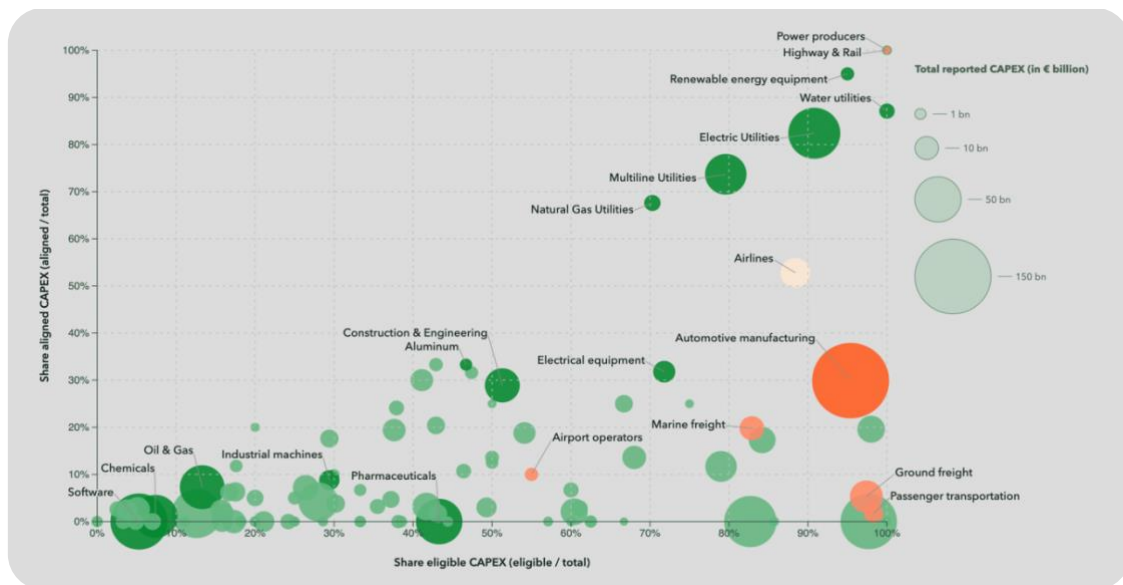


Figure 4: Aviation's reported CapEx compared with other sectors: share eligible versus aligned by industry (2025) (Source: LSEG. Selected industries: Airlines (yellow), Automotive (orange), Transportation (light orange))

³⁹ Figure 4 benchmarks the aggregate CapEx reported by the same eight European listed airlines that made EU Taxonomy disclosures for FY2025 (same as in figures 2 and 3) – Aegean Airlines, Air France-KLM, Croatia Airlines, Lufthansa, Icelandair, IAG, Norwegian Air Shuttle and Ryanair – against other industries using LSEG data.

⁴⁰ Figure 5 benchmarks the aggregate CapEx reported by the same eight European listed airlines that made EU Taxonomy disclosures for FY2025 (same as in figures 2 and 3) – Aegean Airlines, Air France-KLM, Croatia Airlines, Lufthansa, Icelandair, IAG, Norwegian Air Shuttle and Ryanair – against other industries using LSEG data.

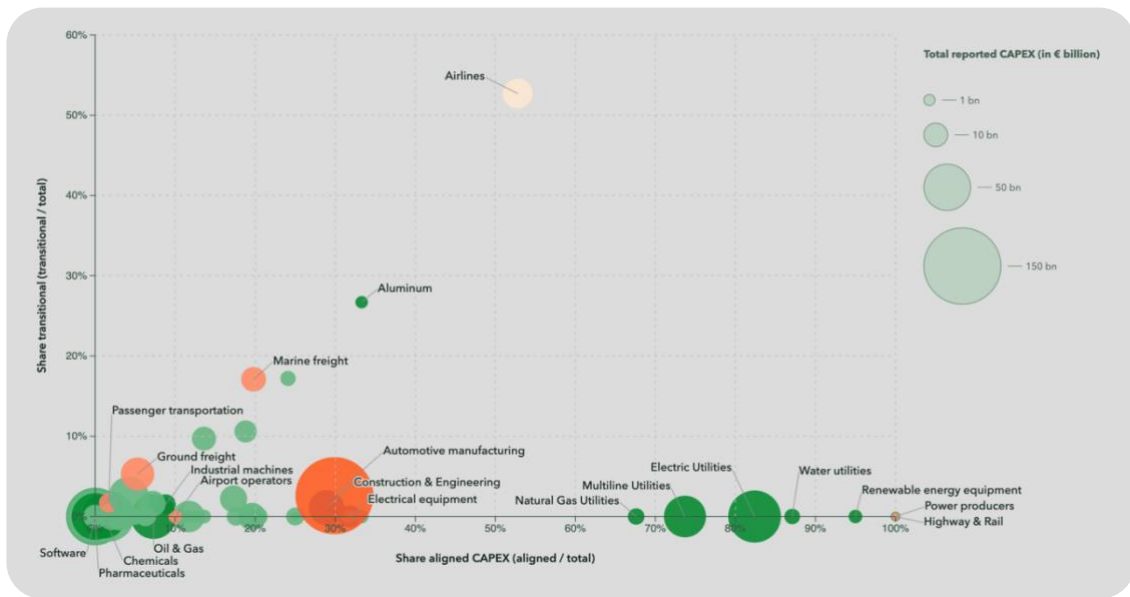


Figure 5: Aviation’s reported CapEx compared with other sectors: share transitional versus aligned by industry (2025) (Source: LSEG. Selected industries: Airlines (yellow), Automotive (orange), Transportation (light orange))

That more than 50% of aviation’s total CapEx can qualify as aligned transitional expenditure – a threshold not reached by any of the other 114 sectors examined – is particularly striking. Rather than reflecting stronger climate performance, this suggests that the aviation criteria are calibrated around largely business-as-usual expenditure, particularly routine fleet renewal through the acquisition of newer fossil fuel-powered aircraft that already meet the TSC efficiency thresholds as part of standard industry practice.⁴¹ While Taxonomy alignment in other sectors generally requires a substantive shift in investment, the present aviation criteria therefore risk reinforcing, rather than shifting capital away from, precisely the carbon-intensive investment patterns that Article 10(2)(d)’s prohibition on carbon lock-in is intended to prevent.

Flowing from this, there is a real economic risk that existing aircraft wrongfully classified as Taxonomy-aligned may subsequently become stranded assets.

If aviation must subsequently decarbonise more rapidly to remain compatible with the EU’s climate objectives, aircraft wrongfully treated today as sustainable are likely to have to be retired, substantially retrofitted or economically devalued before the end of their expected operating lives. This is precisely the type of market impact Article 19(1)(i) requires the Commission to consider.

As such, from both climate and economic perspectives, the mere possibility of tightening the TSC at a later date does not resolve the issues flowing from overly permissive criteria

⁴¹ Louis Leestemaker et al., *Who Benefits from Free Allocation in Aviation? Impact on Airlines, Decarbonisation and the Internalisation of External Costs* (CE Delft 2026) 19, online at: https://opportunitygreen.org/wp-content/uploads/2026/09/CE_Delft_Who_benefits_from_free_allocation_in_aviation.pdf accessed 12 August 2026.

today. Instead, investment decisions made under today's sustainability classification can have severe climate and financial consequences lasting for decades.

Do No Significant Harm (DNSH)

Taxonomy alignment requires more than a substantial contribution to one or more of the environmental objectives listed in the Regulation⁴²:

- Under Article 17 of the Taxonomy Regulation, an activity must also do no significant harm (DNSH) to any of these environmental objectives. In relation to climate change mitigation, Article 17 provides that, taking account of the life cycle of the products and services provided by the activity, an activity causes significant harm where it leads to significant GHG emissions.
- Article 19 further requires the TSC to establish minimum requirements necessary to avoid significant harm, taking account of both short- and long-term impacts and the activity's life cycle.

There is thus a fundamental inconsistency in the existing TSC, which classify fossil-fuel-dependent aircraft as Taxonomy-aligned where those aircraft continue to produce significant emissions over operating lives extending for several decades. “Incremental efficiency improvements” for CO₂ emissions thresholds, as described by the Platform and relied on by the Commission, cannot by itself establish compliance with DNSH.⁴³ The assessment must consider the environmental consequences of the activity over its life cycle and against the Regulation's substantive standard of no significant harm, and must satisfy all the other cumulative requirements of transitional activities under Article 10(2).

Furthermore, the present TSC do not address aviation's substantial non-CO₂ climate effects, including nitrogen oxides (NO_x), sulphur oxides (SO_x) and contrails. The Commission's own 2040 Impact Assessment recognised that the total non-CO₂ impacts of aviation are “at least as significant as those of CO₂ alone”, yet the aviation TSC contain no express reference to those effects.⁴⁴ This omission is significant because newer, more CO₂-efficient aircraft technology may not produce equivalent improvements in non-CO₂ effects and may in some circumstances worsen them, thus worsening other environmental objectives in breach of the DNSH principle.

DNSH must also be read alongside the Taxonomy Regulation's exacting evidential standard. Article 19(1)(f) requires the TSC to be based on “conclusive scientific evidence and the precautionary principle”. The Commission must therefore positively establish both that an activity makes the required substantial contribution and that it causes no

⁴² Climate change mitigation; climate change adaptation; the sustainable use and protection of water and marine resources; the transition to a circular economy; pollution prevention and control; the protection and restoration of biodiversity and ecosystems (see figure 1).

⁴³ Dryade VZW, Stichting ter Bevordering van de Fossielvrij-Beweging and Protect Our Winters Austria (Case T-/24), Application for Annulment (General Court of the European Union, 27 August 2024) (unpublished), para. 106.

⁴⁴ European Commission, ‘Commission Staff Working Document: Impact Assessment Report, Part 4, Accompanying the Communication *Securing Our Future: Europe's 2040 Climate Target and Path to Climate Neutrality by 2050 Building a Sustainable, Just and Prosperous Society*’ SWD (2024) 63 final (6 February 2024) 81, online at: https://eur-lex.europa.eu/resource.html?uri=cellar:6c154426-c5a6-11ee-95d9-01aa75ed71a1.0001.02/DOC_4&format=PDF accessed 24 August 2026; Dryade VZW, Stichting ter Bevordering van de Fossielvrij-Beweging and Protect Our Winters Austria (Case T-/24), Application for Annulment (General Court of the European Union, 27 August 2024) (unpublished), para. 135.

significant harm; where the evidence is incomplete or scientific uncertainty remains as to significant environmental harm, the precautionary principle weighs against including the activity in the Taxonomy.

The scale of those harms in the aviation sector illustrates what is at stake. CE Delft estimates that six European airline groups (including Ryanair, Lufthansa, Air France-KLM, EasyJet, Wizz Air and IAG) caused €29.6 billion in climate damages in 2025, comprising €14.7 billion from tank-to-wing CO₂ emissions, €10.3 billion from non-CO₂ climate impacts and €4.6 billion from well-to-tank CO₂ emissions (see figure 6).⁴⁵ Classifying investments in conventional fossil-fuel aviation as Taxonomy-aligned therefore risks giving a stamp of approval and encouraging activities associated with substantial climate damages.⁴⁶ This is why it is imperative that activities enter the Taxonomy only when lawful TSC capable of satisfying the Regulation's requirements can be established.

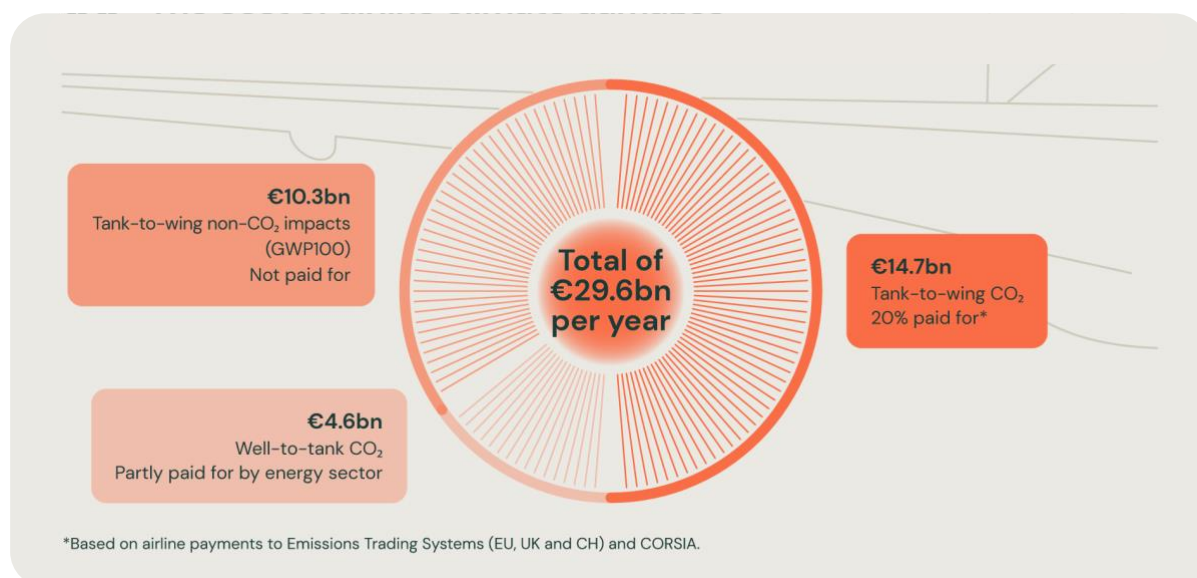


Figure 6: Estimated cost of climate damages caused by six major European airline groups (2025)

The Commission's proposed revisions: a missed opportunity

The Commission's proposed revisions of the Taxonomy's aviation TSC in March 2026⁴⁷ (and scheduled to be adopted in the third quarter of 2026) represented an opportunity to address the deficiencies just outlined in the existing framework. Indeed, the Commission

⁴⁵ Louis Leestemaker et al., *Who Benefits from Free Allocation in Aviation? Impact on Airlines, Decarbonisation and the Internalisation of External Costs* (CE Delft 2026) 46, online at: https://opportunitygreen.org/wp-content/uploads/2026/09/CE_Delft_Who_benefits_from_free_allocation_in_aviation.pdf accessed 12 August 2026.

⁴⁶ Ibid.

⁴⁷ Commission Delegated Regulation (EU) 2023/2485 of 27 June 2023 amending Delegated Regulation (EU) 2021/2139 establishing additional technical screening criteria for determining the conditions under which certain economic activities qualify as contributing substantially to climate change mitigation or climate change adaptation and for determining whether those activities cause no significant harm to any of the other environmental objectives [2023] OJ L 2023/2485, online at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202302485 accessed 21 September 2026.

has itself identified inconsistencies, legal uncertainty and overly complex TSC as challenges to the Taxonomy's implementation.

However, the proposed revisions do not resolve the core concerns raised earlier, and in some respects, risk further weakening the criteria.

In particular:

- **There is a continued Taxonomy-aligned label granted for fossil-fuel aircraft.** The draft would extend from 2027 to the end of 2029 the period during which fossil-fuel-powered aircraft meeting the relevant efficiency criteria can qualify as Taxonomy-aligned. This risks further lock-in of carbon-intensive assets, given aircraft lifetimes of 20–30 years, is contrary to the precautionary principle, and is in direct contradiction with Article 10(2), including the requirements that transitional activities support a 1.5°C-compatible transition, correspond to best performance in the sector, and avoid carbon lock-in.
- **There is weaker ambition on alternative aviation fuels.** The draft would delay from 2028 to 2030 the point at which aircraft certified to operate on 100% SAF become eligible under the relevant criterion. Yet such aircraft are already considered technologically and economically feasible. The delay could instead direct investment towards aircraft limited to 50% SAF blends which will remain operational for decades. For instance, the ICCT estimates that the proposed two-year delay could lock in 8.1 MtCO₂ over the lifetimes of the 392 narrowbody and widebody aircraft delivered in 2028–29.
- **There are insufficient safeguards around which fuels qualify.** The proposed reference to the broad ReFuelEU definition of SAF does not itself prevent Taxonomy alignment of fuels derived from potentially unsustainable feedstocks associated with land-use change, deforestation and significant scalability constraints produced with food and feed crops, cooked oil, and animal fats (i.e., HEFA-based bio-SAF⁴⁸). The TSC should instead focus strictly on synthetic fuels produced using renewable energy, which offer a genuinely sustainable and scalable alternative to fossil fuels, consistent with the Taxonomy's purpose.

The review should be used to strengthen, rather than further dilute, the Taxonomy's standards. Where fossil-fuel aviation activities cannot satisfy those requirements, the appropriate response is not to relax or extend the criteria, but to exclude those activities until lawful TSC can be established. This would help restore the Taxonomy's core function, which is to provide credible market signals that direct capital towards activities that are truly aligned and consistent with the EU's climate goals.

⁴⁸ Not including advanced bio-SAF from waste streams.

A recent judgment of the General Court in *Dassault Aviation v Commission*⁴⁹ illustrates a further concerning direction of travel for the EU Taxonomy and aviation.

In that case, the Court annulled the Commission's exclusion of private jets' manufacturing from the category of transitional activities, finding that the Commission effectively discriminated against the private jets' sector in comparison with commercial aviation by including the latter in the Taxonomy but not the former. It also accepted Dassault's argument that business aviation performs transport functions that are not readily substitutable by other modes of transport, particularly in terms of speed and flexibility between city pairs lacking direct connections.

While the judgment does not mean that private jets are now automatically Taxonomy-aligned (the Commission has stated they will not appeal the judgment so will now adopt new TSC for aircraft manufacturing), it nevertheless opens the possibility that the manufacturing of business aircraft – which are considered 14 times more emitting (per passenger) than commercial aircraft and 50 times more than trains⁵⁰ – could be labelled as green investments under the EU Taxonomy, further undermining its purpose.

In our view, the judgment failed to properly apply the Taxonomy Regulation's strict requirements for transitional activities and gave insufficient weight to the Taxonomy's objectives of preventing greenwashing, avoiding carbon lock-in and stranded assets, and directing capital towards genuinely sustainable activities. Business aircraft manufacturing does not satisfy the transitional activity test because:

- **It is incompatible with a 1.5°C pathway and the climate change mitigation objective.** Business aircraft manufacturing is not consistent with a 1.5°C-aligned pathway and causes significant harm to the Taxonomy's climate change mitigation objective, with the trajectory of the entire aviation sector assessed as "Critically Insufficient" by Climate Action Tracker.⁵¹
- **It does not represent best greenhouse gas emissions performance.** Even compared with commercial aviation, private jets are substantially more emissions-intensive per passenger and therefore cannot satisfy the Article 10(2) requirement.
- **It creates long-term carbon lock-in.** Investment in private jets leads to the lock-in of carbon-intensive assets, as aircraft can remain in service for up to 40 years, locking emissions into the fleet well beyond the period compatible with the EU's climate objectives.

⁴⁹ *Dassault Aviation v Commission* (Case T-77/24) EU:T:2026:409, judgment of 24 June 2026, online at: <https://infocuria.curia.europa.eu/tabs/affair?lang=en&publishedId=T-77%2F24&searchTerm=T%252D77%252F24> accessed 24 August 2026.

⁵⁰ Transport & Environment, 'Private Jets: Can the Super-Rich Supercharge Zero-Emission Aviation?' (27 May 2021), online at: <https://www.transportenvironment.org/articles/private-jets-can-the-super-rich-supercharge-zero-emission-aviation> accessed 24 August 2026.

⁵¹ Climate Action Tracker, 'International Aviation', online at: <https://climateactiontracker.org/sectors/aviation/> accessed 24 August 2026.

The judgment is also problematic for its treatment of downstream (Scope 3) emissions. The General Court distinguished between the manufacture of aircraft and their subsequent operation, thereby excluding the latter from the assessment of climate impacts. This approach is fundamentally inconsistent with the Taxonomy Regulation's life-cycle assessment requirement under Article 17, as well as requirements for consistency with a 1.5°C pathway and avoidance of lock-in of carbon-intensive assets under Article 10(2). It also sits in stark contradiction with the broader direction of climate governance, where courts are increasingly recognising the relevance of downstream emissions, including in the UK Supreme Court's *Finch* decision and the Paris Judicial Court's ruling requiring *TotalEnergies* to consider Scope 3 emissions in its climate risk mapping.

Perhaps most significantly, the case highlights a broader inconsistency within the current aviation Taxonomy. Dassault challenged the exclusion of business aircraft by highlighting that most commercial aircraft are classified as transitional activities by the Commission. Because the legality of commercial aviation's inclusion is being considered separately in *Dryade and Others v Commission*, the Court focused primarily on the arbitrariness of the distinction between business and commercial aircraft, rather than whether either category satisfies the substantive requirements of the Taxonomy Regulation. This goes to show that the Commission's incoherent approach causes real problems for various activities within, and potentially outside, aviation. The legally coherent solution is not to extend Taxonomy alignment to private jets, but to remove both fossil-fuelled commercial and business aircraft from the Taxonomy unless and until they satisfy the Regulation's cumulative criteria.

Conclusion

The issues identified in this briefing are not isolated technical shortcomings but reflect a broader departure from the purpose of the Taxonomy Regulation. The current aviation TSC, the Commission's proposed revisions, the recent *Dassault* judgment, as well as CE Delft's findings all point towards a continuing permissive interpretation of transitional activities that undermines the Taxonomy's integrity.

Rather than reorienting capital flows towards genuinely sustainable investment, the current approach creates false market signals, locks in carbon-intensive assets, and misclassifies activities that do not satisfy the Taxonomy Regulation's cumulative requirements, including the DNSH principle and the precautionary principle.

This weakens the credibility of the Taxonomy as a cornerstone of the EU's sustainable finance framework and is likely to divert investment away from the technologies needed to achieve the EU's legally binding climate targets. The appropriate response is therefore not to further relax or extend the aviation TSC, but to ensure that they fully reflect the stringent requirements laid down by the Taxonomy Regulation. Where fossil-fuel aviation activities cannot satisfy those requirements, they should not be classified as Taxonomy-aligned until lawful, science-based TSC can be established.

Recommendations for an improved and lawful EU Green Taxonomy

To restore the Taxonomy's integrity and ensure compliance with the Taxonomy Regulation, the Commission should:

- **Ensure transitional activities are aligned with a credible 1.5°C pathway and the Paris Agreement.** Transitional activities should qualify only where they demonstrably support the transition to climate neutrality and are Paris-aligned. If they do not, they should be excluded entirely.
- **Exclude fossil-fuel-powered aircraft that do not satisfy the Taxonomy Regulation.** Fossil fuel powered aircraft should not be classified as Taxonomy-aligned as they fail to represent the best greenhouse gas emissions performance in the sector. At a minimum, and if the Commission does not exclude fossil fuel planes from the Taxonomy, the Commission must refrain from modifying the end date set out in TSC 3.21(c) to avoid further delaying the transition of the aircraft manufacturing sector.
- **Avoid further delaying the transition.** The Commission should not delay the Taxonomy-alignment of 100% SAF aircraft under TSC 3.21(d), nor delay the eligibility of aircraft capable of operating on 100% synthetic aviation fuels.
- **Apply robust sustainability criteria and stronger incentives for scalable aviation fuels.** The TSC should prioritise synthetic aviation fuels and refer to the sustainability criteria for alternative fuels laid down in Regulation (EU) 2023/240 and Directive (EU) 2018/2001. In particular, they should more strongly incentivise scalable pathways that currently face barriers to commercial deployment, including e-SAF and alcohol-to-jet fuels, rather than HEFA-based bio-SAF.
- **Reform the treatment of SAF.** The Commission should reconsider whether SAF blending is an appropriate basis for classifying aircraft operating costs as transitional and consider instead recognising e-SAF purchases as Taxonomy-eligible OpEx, counting only the additional cost relative to fossil kerosene as sustainable expenditure. If the existing approach is retained, SAF use should at minimum be distributed evenly across airline fleets rather than administratively allocated to selected aircraft, to prevent airlines from concentrating the Taxonomy benefits of limited SAF use on a subset of their fleet and thereby classifying the associated OpEx as aligned.
- **Strengthen the scientific basis of the TSC.** TSC should be based on conclusive scientific evidence, apply a life-cycle assessment of climate impacts, including non-CO₂ effects where relevant, and give full effect to the precautionary principle.

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