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Unfair Competition on Software Capital Treatments (U.S. Companies versus EU)

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Background

Software is a strategic asset for banks, enabling them to serve clients where and when needed, to manage complex portfolios, to develop cyber security measures, and to deliver digital services to clients competitively. Software displays special characteristics, namely its capacity to generate income, its vital importance in banking operations, and in facilitating the implementation and embedding of regulatory requirements.

Furthermore, the nature and use of software have fundamentally changed over the past 20 years, playing now a central role in driving innovation and operational efficiency. Today, it is fair to say that “software is as necessary an asset for producing banking services as a factory is for producing cars”.

However, the prudential treatment of software differs across major jurisdictions.

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The Question for EU Policymakers

Should EU prudential rules stop treating internally developed or acquired software as a CET1 deduction (in whole or in part) and instead treat it like other operating infrastructure assets (subject to normal risk-weighting), to remove a competitive distortion versus U.S. banks and to support bank investment in digital transformation and cyber resilience?

In the EU today, software is treated as an intangible asset under the CRR by reference to IAS 38, which triggers a prudential amortisation mechanism and a CET1 deduction of the positive difference between accounting and prudential amortisation as per the EBA RTS on the prudential treatment of software assets. In the U.S., internal-use software is typically classified within property and equipment under US GAAP, and U.S. capital rules do not explicitly require a deduction for software. As such, U.S. banks can recognize software on-balance sheet without a specific CET1 deduction, while the asset still amortizes through P&L over time.

State of Play

From a prudential perspective, in the EU, internal-use software assets are intangible assets because art. 4(1)(115) of the CRR gives them the “same meaning as under the applicable accounting framework” (i.e., IAS 38 par. 4, 9), triggering a partial capital deduction¹ (CRR art. 36). Banks must follow the “prudential amortisation” approach specified by EBA RTS², partially deducting activated software investments from their Common Equity Tier 1 (CET1) capital: the positive difference between accounting and prudential amortisation is deducted, while the remaining amount is risk weighted.

This treatment is not risk-adequate and increases the cost for EU banks to acquire software, reducing the capital available for lending and investment. Software and IT investment are the backbone of digital transformation of banks, and this capital treatment creates a competitive disadvantage for IT investments in the EU.

In the US, banks are generally permitted to recognize 100% of software assets on their balance sheets without triggering regulatory capital deduction. This is based on U.S.

¹ CRR (art. 36 (1)(b)), CET1 deduction, “with the exception of prudently valued software assets the value of which is not negatively affected by resolution, insolvency or liquidation of the institution”.

² EBA’s RTS on the prudential treatment of software assets limits the prudential amortisation of software assets to a maximum of three years.

accounting rules (US GAAP³) that allow banks to classify software within tangible assets, more specifically under “Property, Plant, and Equipment”. This classification enables banks to avoid the automatic deduction associated with “intangible assets”, as dictated by more rigid interpretations of Basel standards. Also, unlike the CRR, the U.S. equivalent prudential framework⁴ (see Appendix) does not specifically list internal-use software among CET1 deductions, granting U.S. banks greater flexibility.

Additionally, the US-GAAP amendments clarify that the intangibles disclosures in paragraphs 350-30-50-1⁵ through 50-3 are not required for capitalised internal-use software costs, leading to the classification of internal-use software figures within broader disclosure categories distinct from the “intangible” category, such as “internal-use software and furniture and equipment”.

Example to illustrate the difference between the jurisdictions:

Prudential cost of Software investment	US	EU
Accounting category	Tangible	Intangible
Amount invested	100	100
Accounting amortization period	6 years	6 years
Prudential amortization period		3 years
Prudential treatment (based on the remaining accounting value)	100% RW	Difference btw accounting and prudential amortization deducted (+100%RW on the remaining part)
Hypot. capital requirement	12%	12%
Capital allocation for software paid but not in use yet	$100 \times 12\% = 12$	Full deduction : 100
Capital allocation for software used (year 1)	$100 \times (5/6) \times 12\% = 10$	Prudential amo. - accounting amo. is deducted: $100/3 - 100/6 = 16,67$ Account. value - capital deduction is RW: $(100 - 100/6 - 16,67) \times 12\% = 8$ Total capital impact: 24,67
Capital impact for EU banks is from x 2,5 to x 8,3 higher than for US banks!		

³ ASU 2025-06 Intangibles—Goodwill and Other—Internal-Use Software (Subtopic 350-40)

⁴ Federal Reserve - Regulation Q - SECTION 217.22—Regulatory Capital Adjustments and Deductions.

⁵ 350-30-50 Disclosure

Finally, it is worth recalling that non-banking entities do not have such barriers to invest in IT.

In light of the growing competition from international banks (e.g., JPM announced \$20bn investment on technology for 2026⁶), fintech, GAFAs, and non-banks in general, combined with pressing IT and Cybersecurity challenges (as pointed out by EBA⁷ and ECB⁸), a legislative change is urgent in the context of the digital transformation of the banking business!

Proposal

Considering:

- the need to restore **cross-border level playing field** with the US and allow banks to further invest in Digital, AI, Cyber, Green transition etc. as well as financing EU growth.
- that software today has very little to do with software at the time of IAS 38 (issued by the International Accounting Standards Committee in September 1998) and that it is **part of the backbone of banks' operating infrastructure** and an essential asset for their competitiveness.
- that if software is not deducted from CET1, **it must still be amortised** as per accounting rules, reducing its carrying amount over time.

EU should allow full exemption from prudential deduction, a justified move to support bank digitalisation as it is done in the US.

Software would be treated as an asset subject to appropriate risk weighting (100% under article 113(5) CRR), knowing that, in any case, at the end of the accounting amortization period, the value of software investments is ultimately brought to zero on the balance sheet. The primary benefit of the measure would be the removal of substantial entry barriers that EU banks face to significantly enhance their IT systems.

⁶ [JPM Firm Overview](#)

⁷ [Operational risks and resilience | European Banking Authority](#)

⁸ [Cyber risk - a supervisory perspective](#)

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Amortisation Summary Table

BANK/ENTERPRISE	LINK TO 10-K FORM	AMORTISATION PERIOD	LEVEL OF GRANULARITY
Morgan Stanley	10-K - Morgan Stanley (2024 PDF)	2-10 years	"Capitalized software cost"
Bank of America	10-K - Bank of America (2024 HTML)	up to 12 years	"Furniture and equipment"
JP Morgan Chase	10-K - J.P. Morgan Chase (2024 PDF)	3-10 years	"Internal-use software and furniture and equipment"
Citigroup	10-K Citigroup (2024 PDF)	up to 10 years	"Internal-use software"
Goldman Sachs	10-K - Goldman Sachs (2024 PDF)	3 years	"Capitalized costs of software developed or obtained for internal use"
Wells Fargo & Co.	Annual Report to Shareholders - Wells Fargo & Co. (2024)	up to 10 years	"Furniture and equipment"

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Appendix - U.S. Prudential Framework and Evolution of US-GAAP Norms

U.S. Prudential Framework

The U.S. framework of prudential norms fundamentally differs from the EU one. Basel rules are transposed into domestic legislation by different federal agencies within a broader framework set by the Congress.

In practice, depending on the chartering and other features of a bank, the bank itself might be regulated and supervised by:

- the **Federal Reserve System (FED)**, if the bank is chartered at state-level and member of the FED system, or if the bank holds companies, savings, and loan holding companies;
- the **Office of the Comptroller of the Currency (OCC)**, if the bank is chartered at the federal (“national”) level, if it is a “savings association”, or if the bank is a federal branch of a foreign bank;
- The **Federal Deposit Insurance Corporation (FDIC)**, if the bank is chartered at state-level and it is not member of the FED system, but it is FDIC-insured (nearly all non-FED-member banks are).

Each of these agencies issues sometimes different prudential regulations that apply to the respective banks of competence. As of 2025, regarding **regulatory capital adjustment and deductions**, the set of prudential norms issued by each agency can be found in the Code of Federal Regulations (CFR) at:

- Title 12, Chapter II, Subchapter A, Part 217, Subpart C, Section 217.22 for FED-regulated banks;
- Title 12, Chapter I, Part 3, Subpart C, Section 3.22 for OCC-regulated banks;
- Title 12, Chapter III, Subchapter B, Part 324, Subpart C, Section 324.22 for FDIC-regulated banks.

All these norms never mention the word “software” (contrarily to the CRR), and they use the Generally Accepted Accounting Principles (US-GAAP) norms for classification.

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Evolution of US-GAAP norms regarding internal-use software

The U.S. prudential regulation framework has always used US-GAAP norms to categorize banks' balance sheet items. In this sense, **internal-use software has never been capitalized as an intangible asset.**

For example, in 1998, the Statement of Federal Financial Accounting Standards – Number 10 (par. 16, 17, 38, 48) clearly stated:

“For internally developed software, capitalized cost should include the full cost (direct and indirect cost) incurred during the software development stage. Such cost should be limited to cost incurred after

- a. management authorizes and commits to a computer software project and believes that it is more likely than not that the project will be completed and the software will be used to perform the intended function with an estimated service life of 2 years or more and
- b. the completion of conceptual formulation, design, and testing of possible software project alternatives (the preliminary design stage).

Such costs include those for new software (e.g., salaries of programmers, systems analysts, project managers, and administrative personnel; associated employee benefits; outside consultants' fees; rent; and supplies) and documentation manuals.”

[...]

“The Board believes that the cost of software acquired or developed for internal use that meets the SFFAS No. 6 criterion for general PP&E⁹ should be capitalized. Internal use software is specifically identifiable, can have determinate lives of 2 years or more, is not intended for sale in the ordinary course of operations, and has been acquired or constructed with the intention of being used by the entity.”

[...]

“The Board believes that the difference between internal use software and other general PP&E is not sufficient to justify different accounting treatment. This standard

⁹ PP&E stands for Property, Plants & Equipment
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provides guidance for determining when capitalization starts and stops, how to amortize the software, how to determine and measure impairment, and other guidance.”

At this link, it is possible to view all the latest GAAP updates regarding Internal-use software accounting classification (code 350-40). The last update is dated September 2025 and clearly does not include internal-use software within intangible assets:

“The amendments in this Update specify that **the disclosures in Subtopic 360- 10, Property, Plant, and Equipment—Overall, are required for all capitalized internal-use software costs, regardless of how those costs are presented in the financial statements.** Additionally, the amendments clarify that the intangibles disclosures in paragraphs 350-30-50-1 through 50-3 are not required for capitalized internal-use software costs”. (p. 2).

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