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2025 capital markets regulatory outlook

Center *for* **Regulatory Strategy** **US**

Message from the Deloitte Center for Regulatory Strategy

In 2025, the approach of regulators is likely to reverse course as the new Trump administration embarks on its agenda. The breadth of regulators' powers could be narrowed further by recent major court rulings that put a chill on the authority of regulators to issue and interpret their own rules without close court review.

However, there are significant new rules affecting the industry that will have to be addressed in 2025. Central clearing is creating a regulatory and compliance challenge for Treasury and repo market participants—and for some, a stay-or-leave decision.[1] Artificial intelligence (AI)-enabled tools and applications are coming to many firms, and regulators are asking tough questions about how firms will govern AI's use and meet compliance expectations. Regulators are taking a hard look at how firms integrate the Securities and Exchange Commission's (SEC) Regulation Best Interest (Reg BI) and related fiduciary standards into their operations. New and amended rules are bringing greater transparency and disclosure requirements—the goal is to create more market competitiveness.

For our *2025 capital markets regulatory outlook,* we have identified five themes that capital markets firms should focus on in the coming year:

- Unwinding reforms expected
- Treasury clearing: Higher standards, new roles
- AI is transformative but must be trustworthy
- Reg BI and regulatory overlap on fiduciary standards
- A focus on disclosure, transparency, and price discovery

Throughout this report, we provide our assessment of the regulatory and supervisory changes—and pressures—that we expect will likely have the greatest impact on capital markets firms in the coming year, with practical considerations to help you better position your firm for the challenges ahead.

We hope you find our outlook to be a resourceful guide that can help you to better understand how these regulatory changes and challenges in 2025 might affect your business. As always, we are here to help you chart the course.

Sincerely,

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Unwinding reforms expected

With the reelection of President Trump to a second, nonconsecutive term, financial regulatory policy is likely to reverse course for the second time in eight years. The outgoing administration leaves plenty of outstanding work for the industry and the new administration needs time to embark on its agenda. Nevertheless, the change in control of Washington shifts the pendulum back to a deregulatory focus with plenty of implications for firms.

To begin, certain priorities of the Biden administration may no longer move forward or may be seriously reimagined, such as the SEC's predictive data analytics proposal.[2] Other unfinished proposals such as rules on order competition, best execution, and amendments for large Treasury trading platforms to register and comply with Regulation Alternative Trading Systems (Reg ATS), will likely languish for the foreseeable future, offering some breathing room to firms inundated by new regulatory and compliance items for the past several years.[3] Finalized items of the Biden agenda, such as the expanded definition of a dealer, could be undone, subject to the notice-and-comment requirements of the Administrative Procedure Act (APA).[4] Expectations are that other finalized items from the agenda, such as Treasury central clearing, will continue to move forward.[5] Over the course of the next year, it will become more apparent which Biden administration initiatives the new Trump administration seeks to unwind. The wheels of enforcement likely will continue to turn, at least until new appointees to lead agencies are in place to put on the brakes. After that, we expect some reexamination of ongoing enforcement.

Treasury clearing: Higher standards, new roles

Now that firms have the SEC's final rule requiring them to clear eligible Treasury security and repo transactions through a covered clearing agency (CCA), the pressure is on to be ready when the rules go into effect with migration deadlines extending into 2026.[6] The new requirements have vast implications for the entire Treasury market and support a central regulatory goal: To ensure that the Treasury market is deep, liquid, transparent, and a source of economic strength.[7] Policymakers working on the rules were focused on the 87% of US Treasury secondary market transactions that are being settled bilaterally and away from central clearing.[8] Bilateral settlement is viewed as a source of counterparty risk, and therefore, contagion risk. Bringing those transactions through central clearing—while adding operational complexity and cost—is expected to promote price visibility, risk mitigation, and crisis prevention. This is no abstraction: In the first months of the pandemic, the Treasury market experienced significant disruption and a "dash for cash" as sellers liquidated their Treasury positions to raise cash, putting severe pressure on yields that, in turn, required even more collateral in the repo markets.[9] This prompted the Treasury and Federal Reserve to temporarily suspend balance-sheet requirements for Treasuries held by primary dealers.[10]

The principles of central clearing are hardly new. In the years after the financial crisis, central clearing requirements were introduced to the over-the-counter (OTC) derivatives market with the Dodd-Frank Act requiring increased clearing of credit default and interest rate swaps.[11] The goal then, as now, was to reduce counterparty risk and contagion risk by centralizing and netting bilateral transactions across various market participants. While clearing of outright and repo transactions in US Treasuries has been available to market participants for some time, there are many who have never elected to centrally clear US Treasuries—until this requirement. The process, while daunting, may present opportunities for some firms in that new business models could arise. Others may decide that the investment and resources the new rules make necessary are not justified by the potential revenue and choose to narrow their participation in Treasury and repo markets.

For starters, market participants who execute eligible transactions will be required to have access to clearing via a covered clearing agency such as the Fixed Income Clearing Corporation (FICC).[12] Access to FICC will require direct access (membership) or indirect access (via an existing member). Then, there are operational needs that go with being a member of the FICC, or any other CCA in the future: necessary technology and infrastructure, margin processes, risk management, compliance and training, and the repapering required for clients. The costs and complexities of each of these steps can be considerable, and some firms may need to start from foundational builds and answer a key question: Will it be worth the effort in the long run?

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Much depends on the context and starting point of a specific firm. There are, in our view, three distinct types of market participants—existing members of clearing houses, firms with repo desks, and nonmember firms—each with their own considerations. Existing members of clearing houses (including the FICC as well as other central clearing parties) should be familiar with the requirements of a clearing member. Firms that clear for clients at the FICC will be able to make marginal business decisions and evolve. That includes the ability to assess current business processes and settlement flows for Treasuries, meet regulatory and clearing house standards, and track submissions to a clearing house on an ongoing basis. These firms may also already have in place internal controls and training to reduce operational risk. A mature approach to the clearing business would also include a comprehensive awareness of affected technology systems so that they can support all the impacted aspects of transactional processing for their clients. Even if lacking, firms would have a clear sense of the technological adjustments and investments that will be needed.

But firms with repo desks that focus only on executing trades face higher hurdles. They will need to build a range of capabilities or risk losing top-line revenue from their trading desk. For example, are they able to manage the submission of indirect member transactions as well as their own? Some of the capabilities that FICC members who clear for clients have built will present entirely new challenges for these firms. They will need, for example, to meet the FICC standards for maintaining a reserve in their proprietary trading accounts and another reserve obligation for their client account. Just as challenging will be the kinds of conversations these firms will need to have with clients. The implications of central clearing—higher trading costs, larger bid-ask spreads, introduction of new margin requirements—may rankle some.

For nonmember firms that are focused meaningfully on Treasuries but who have never considered building the infrastructure to participate in central clearing, this transition will represent a major break with business as usual. They face the decision of significant investment in their own capabilities vs. increasing their transaction-level cost by engaging a clearing broker. This may well drive a deeper business and strategy conversation. The presence of a solid business in Treasuries and repos could reveal a hidden source of value that requires further support. There could be a winnowing of firms willing to provide services to the market—and therefore a business opportunity for those who remain. Alternatively, a firm could decide that it's more trouble than it's worth and simplify its Treasury and repo business.

Either way, our view is that the process required by the central clearing rules will promote the kind of inquiry into business processes, controls, and technology that inevitably reveals hidden weaknesses inside firms—weaknesses that typically are only discovered in moments of heightened risk and even financial crisis. The focus of the rules, after all, is on greater settlement efficiency and stability. In relatively stable periods, counterparty and contagion risk typically receive only modest attention and concern. But, in times of stress, the cracks in the market reveal themselves. As Warren Buffett famously said, "You don't find out who's been swimming naked until the tide goes out."[13] The SEC doesn't want to find out, so they are mandating everyone wear a bathing suit.[14]

AI is transformative but must be trustworthy

AI is a powerful and possibly transformative tool for broker-dealers, investment banks, and exchanges. Use cases continue to be identified and refined. There is potential for AI to facilitate greater automation of repeated tasks with a focus on reducing operating expenses; improving customer service through AI assistance in customer acquisition, onboarding, and retention; and supporting skill sets across the institution, to name just a few potential use cases.

But just as quickly as use cases for AI are emerging, so, too, are the concerns from regulators and policymakers.[15] This heightened focus means that AI should be handled as both a technological and governance challenge. Decision-makers will need to focus on both what AI can do as a technology and how AI needs to be managed as a potential source of compliance risk.

Right now, many regulators are looking at AI holistically—and aiming to make sure AI is used responsibly.[16] They have identified many different sources of risk and potential abuse from the use of AI at financial institutions. Most critically, they are looking at whether AI could compromise customer privacy, whether it may contain hidden sources of bias or systemic risk, and whether it can be used responsibly in investment research.[17]

A critical determinant of future regulatory action and interest in AI will be its initial successes in supporting the proper functioning of banks and capital markets. AI may prove to be a powerful tool to conduct internal surveillance of trading and communications or to automate the creation of Suspicious Activity Report (SAR) narratives for anti-money laundering (AML) alerts. AI also may be useful in reviewing and monitoring marketing content and disclosures and processing and responding to customer complaints or concerns. Among firm operations, AI could be used to conduct some aspects of risk assessment, support loan underwriting, observe complex patterns of market manipulation, handle or monitor trade reconciliations, identify potential fraud, and support voice-enabled banking. AI, properly trained, could also be used to support trading platforms or sales teams through chatbots. These applications are just some of the potential use cases, each of which likely will draw the interest of regulators. Should firms proceed with these applications, they should be prepared to answer questions from regulators about how the AI models work and whether they are delivering expected outputs.

Another consideration is regulatory complexity. There are multiple regulators and policymakers who have taken action—or are contemplating doing so—on AI-related guidance and rulemakings. The Biden White House issued an AI "Bill of Rights," the SEC has proposed a Predictive Data Analytics rule, and the US National Institute of Standards and Technology (NIST) has released an AI Risk Management Framework.[18] Meanwhile, several states and localities have issued guidance or rules or have begun the rulemaking process, such as the New York Department of Financial Services' (NYDFS) recent guidance to address cybersecurity risks arising from AI.[19] These efforts may mirror each other, but each rule will entail a regulatory compliance process. These developments, particularly at the federal level, will be subject to the direction that the new administration wishes to take and any judicial challenge that may arise.

To cope with this complexity, financial firms will need to marry AI implementations with a governance process that can respond to regulatory concerns and inquiries. For example, one should expect that regulators may want AI to be regularly analyzed so that it doesn't lead to violations of existing securities and privacy laws. Any AI tool likely will need to be accompanied by written policies and procedures governing its use. Some of the new standards of governance and regulation may come in the form of explicit rules and laws; others may emerge from regulatory guidance and examination patterns. Ultimately, a failure to demonstrate an effective record of self-governance with a focus on risk reduction and ethical implementation will likely lead to regulatory attention.

What does effective governance look like? Here are some specific principles and actions that firms may want to consider in the coming year:

First: Establish—or enhance—a governance framework and cross-functional team to establish clear definitions of AI and predictive data analytics and the strategies for their use within the firm. This governance-focused team should pay particular attention to any uses of AI that apply to interactions with customers and clients. Within this framework, an institution should designate a compliance-focused oversight committee to monitor AI's use, keep abreast of the changing regulatory landscape, and evaluate new applications of the technology.

Second: Conduct an inventory of current and future uses of AI and predictive data analytics, such as AI-driven platforms for communicating with clients or AI-enabled tools to identify investment recommendations. Such applications and platforms should be reviewed regularly to identify and comb through sources of bias in models or training data, confirm that any AI or predictive analytics are explainable, test that errors in AI usage don't lead to long-term or systemic impacts, and determine that any data used to train AI does not include private or confidential information, including protected intellectual property.

Third: Integrate AI and predictive data analytics into existing conflict-of-interest programs. Processes may be needed to make sure that stakeholders can identify potential conflicts before such tools are introduced. These processes will involve an understanding of how the technology was developed and works so that it can be tested regularly and that professionals within the institution understand ways in which conflicts can emerge.

Reg BI and regulatory overlap on fiduciary standards

Since March 2022, the SEC has issued three staff bulletins related to Reg BI concerning account recommendations,[20] conflicts of interest,[21] and the care obligation,[22] respectively. These staff bulletins detailed expectations for a rigorous approach to rule compliance. Over the coming year, we expect the SEC to take a more comprehensive approach to Reg BI exams with greater attention on firms' abilities to prevent and detect violations of Reg BI, keep a record of and respond to those violations, and institute an expectation throughout the business that violations will be penalized and reported. Clearing the hurdle of these heightened exam standards may require additional tools of compliance, such as surveillance, testing, additional training, and remediation programs.[23] In short, firms will need a more systematic and business-integrated approach to compliance with the rule.

Overlapping standards of conduct for firms and registered representatives are set by federal authorities, self-regulatory agencies, and state lawmakers. This means that firms will likely need to meet multiple expectations. Although the North American Securities Administrators Association (NASAA) has attempted to harmonize its model rule with Reg BI in a recent proposal, states are not required to adopt the model rule directly.[24] Given evolving and overlapping regulatory expectations, the process of implementing standards and processes to meet Reg BI and overlapping standards will have to become more rigorous, more agile, and more comprehensive as firms and financial professionals are likely to prefer a unified approach at the firm level, rather than multiple workflows for multiple standards.

Our view is that the regulatory trend has been toward increasingly higher standards. Thus, a leading practice is to empower key decision-makers to level up their Reg BI readiness and processes, aiming for a higher standard grounded in core principles of client service and professional integrity. Recommendations and communications with clients should be able to withstand scrutiny for their risk and complexity characteristics and whether alternatives were presented—and those offerings should be memorialized clearly. It's not enough to have a policy and even personnel dedicated to enforcing it. Firms need to have in place procedures and workflows integrated into the business that enable the firm and registered representatives to evidence their compliance with Reg BI requirements.

To meet these expectations, firms may wish to consider bringing in a third party to test existing procedures and practices, provide additional training, and assess remediation efforts. The benefit of such an effort may be not only enhancements to their processes, but also enhancements to firms' ability to evidence the effectiveness of these processes to meet Reg BI requirements.

A focus on disclosure, transparency, and price discovery

Disclosure of covered loans: The SEC's 2023 adoption of Rule 10c-1a will accelerate the reporting of covered loans, creating more transparency in the market for the terms and pricing of such instruments.[25] The final rule was less restrictive than the proposed rule—the original draft rule set a 15-minute requirement for reporting covered loans, while the final rule sets the deadline for the end of the trading day. Since the rule became effective at the beginning of 2024, the industry is already well into the implementation timeline with the deadline approaching in early 2026.[26] The major decision institutions must make is whether to turn to third-party vendors to help firms handle the reporting and clearing process. The European Union's experience with a parallel rule—its Securities Financing Transactions Regulation (SFTR)—suggests a challenging and detail-intensive implementation process. In the end, SFTR delivered little benefit to improved transparency, though SFTR and 10c-1a were designed differently.[27] The implementing rule—the Financial Industry Regulatory Authority's (FINRA) proposed 6500 series—includes numerous fields that were not specified in the 10c-1a rule and was approved by the SEC at the end of last year.

Greater transparency of short-sale positions: The SEC's Rule 13f-2 was required by the Dodd-Frank Act and is the second meaningful update of short-position rules since 1938.[28] The prior major revision of the rules came in 2005 with Regulation SHO.[29] While data will be aggregated by the SEC, and therefore client privacy should be protected, all short positions of at least $10 million or 2.5% of shares outstanding in a given security will have to be disclosed.[30] This places the onus on the broker-dealer to know where the short position would be covered for settlement before executing the trade, thus greatly reducing a client's ability to pursue a naked short trade. This applies to all institutional investment managers that hold large short positions, but the SEC said its rule would primarily affect only a handful of registered investment advisors, primarily hedge funds.[31]

Accelerated reporting of beneficial ownership: The SEC's 13(d) and 13(g) rule amendments accelerate from 10 days to 5 days the amount of time given to disclose a position that has reached at least 5% of a given equity security.[32] Any amendments to an existing, already disclosed position need to be disclosed within two business days.

Remote inspection pilot program: FINRA is taking a harder line on the expectation that member firms oversee employees regardless of their work location.[33] This will include expectations that firms conduct and document a risk assessment and have in place written procedures for a remote inspection. In-person, unannounced inspections are still possible, especially if an office or location is considered high risk or there are indications of irregularities.[34] FINRA has received approval from the SEC to treat private home offices of brokerage employees as "non-branch locations," in effect subjecting these locations to compliance reviews every three years (a traditional branch is inspected annually). Such home offices also may not be used for client meetings, or handling of client securities. FINRA also announced that it will allow firms to conduct compliance reviews of home offices remotely if they opt into a FINRA Pilot Program that allows remote inspections.

Daily customer reserve calculations: In January, the SEC finalized amendments to Rule 15c3-3 to require certain firms to calculate their customer reserve requirements (and make corresponding deposits) daily.[35] Firms may look at the rule's requirements as an opportunity to upgrade neglected systems and processes. The rule's compliance date is December 31, 2025.

Regulation National Market Securities (NMS) and Rule 605 amendments: In September 2024, the SEC voted to approve several updates to Reg NMS including the minimum pricing increments (i.e., tick size) across all venues, reducing the access fee caps, requiring all fees be known prior to the trade, enhancing the transparency of better-priced orders by standardizing round lot and odd lot definitions, and providing odd lot pricing in market data.[36] Changes will begin on November 3, 2025, so firms will need to prepare for the system, business, and compliance impacts.

Extensive system changes, as well as comprehensive testing, will be necessary. Organizations should assess current capabilities and identify system deficiencies to determine the complexity and scope of efforts needed. There will also be ongoing changes as symbols update their tick size and round lots. The tick size is updated every six months with only one month to implement. Round lot definitions and impact to odd lots would also change as symbols cross the range thresholds.

Given the scope of systems and operations affected by the changes, assembling the affected data and ensuring data quality may be a substantial undertaking for many organizations. Ongoing changes to the tick size will drive a need for data governance standards, front to back process, and controls. Market data systems will need to be updated for changes to the tick size, market data fees, and changes to odd lot definitions. Surveillance and regulatory reporting systems will need to be updated as well. Reg NMS has been temporarily stayed by the SEC pending the outcome of a lawsuit brought by multiple exchanges.

The SEC has adopted amendments to its disclosure rules for Regulation NMS related to order execution.[37] These amendments are aimed at creating more transparency for executions and permitting comparison of execution quality at different market centers. They expand the scope of those required to produce the reports, with more broker-dealers and single dealer platforms swept into the rule, which also now covers more types of transactions. Firms may likely want to consider working with a vendor to meet these new reporting requirements, so vendor assessments are a logical first step towards meeting the November 2025 compliance deadline.

The SEC has adopted amendments to its disclosure rules for Regulation NMS related to order execution. These amendments are aimed at creating more transparency for executions and permitting comparison of execution quality at different market centers.

Data collection for non-centrally cleared bilateral repo (NCCBR) transactions: On May 6, 2024, the Office of Financial Research (OFR) finalized a new data collection for NCCBR transactions in the US repurchase agreement market, which came on the heels of a significant rule finalized by the SEC in December 2023 requiring most US Treasury transactions (including repo transactions) to be centrally cleared by 2026.[38] The rule bifurcates reporters into two categories. Category 1 reporters constitute broker-dealers with daily outstanding commitments in NCCBR transactions of at least $10 billion across all business days in the previous calendar quarter, and Category 2 reporters constitute any financial company not in Category 1 that has more than $1 billion in assets or assets under management (AUM) and at least $10 billion in daily outstanding commitments in NCCBR over all business days in the previous calendar quarter.[39] The compliance date for this data collection was December 2, 2024.

The road ahead

With a new administration taking the reins, regulatory headwinds are likely to continue to shift in the months ahead. Still, the industry has several high-priority implementation initiatives to address like Treasury central clearing and the NCCBR data collection. While the pace of new rulemaking may slow over the coming year, firms should remain vigilant in their preparations to meet these regulatory mandates. As federal regulators pivot from a period of active rulemaking to likely more industry-friendly initiatives, firms should expect a potential uptick in mandates from certain states that may seek to fill a perceived void. The industry also has an important opportunity to have its voice heard by an administration with an open ear, and firms will want to be strategic about the priorities they choose to promote.

After several years of an assertive regulatory posture and lengthy agenda creating some uncertainty for firms, they should view the coming year as an opportunity to focus. New significant mandates are now unlikely to be followed by more new mandates, which is surely welcome news to compliance teams. Meanwhile, firms have an opportunity to clear regulatory roadblocks if they prioritize and communicate effectively. 2025 should be a year of opportunity for firms prepared to seize the moment.

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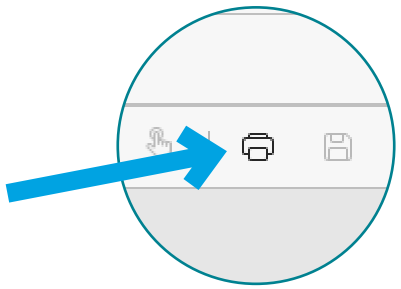

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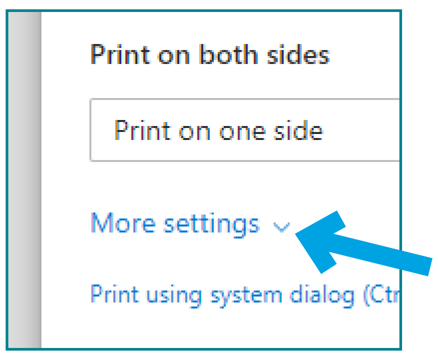
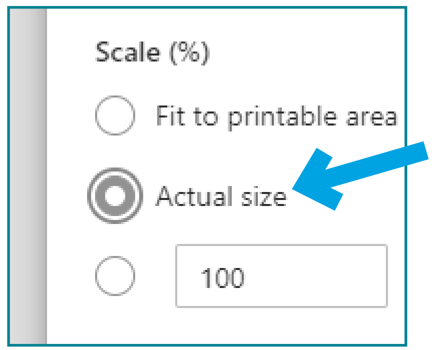
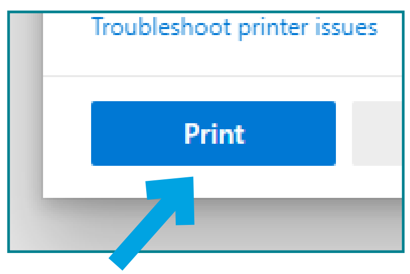


3. Change "Scale (%)" to "Actual size"

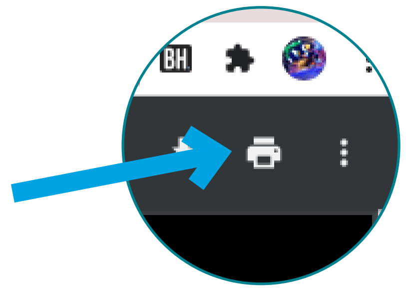


4. Click on the print button to print the document.

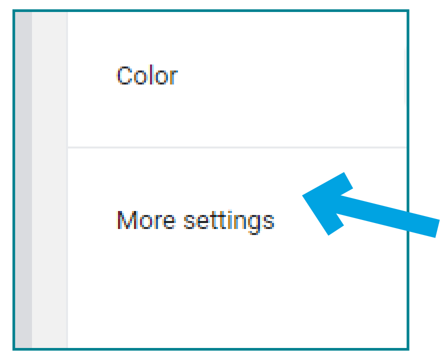


If printing from Google Chrome:

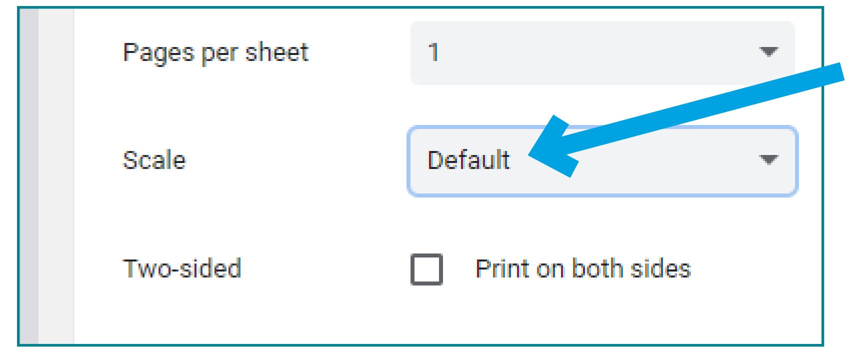
1. Click on the print icon



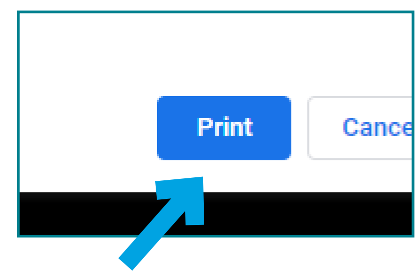
2. Scroll down to "more settings" and click to expand the menu



3. Change "Scale (%)" to "Default" (if needed)



4. Click on the print button to print the document.



BACK TO BEGINNING