Supplementary information regarding Barclays settlement with the Authorities in respect of their investigations into the submission of various interbank offered rates (AMENDED)

Context

In anticipation of Bob Diamond's appearance before the Treasury Committee tomorrow, 4 July, 2012, in the interest of clarity and transparency we set out on behalf of Barclays a brief summary of the salient events and the actions that Barclays has undertaken since becoming aware of them. These explanations are in no way intended to excuse any of the events that occurred. These events should never have taken place, and Barclays deeply regrets that they did.

The structure of the material that follows is intended to provide a framework through which to interpret the various events. To aid that, it also includes:

- A chronology covering the four issues examined by the investigating authorities. This is important to avoid the issues being conflated and confused. It is particularly important to recognise that the trader conduct was separate from the conduct during the credit crisis and characterised differently by the Authorities. The actions of the traders were regarded as an attempt to manipulate ultimate reference rates. The actions of Barclays during the credit crisis were not.
- A timeline summary of the principal documented contacts between Barclays and the Authorities during the financial crisis period relating to LIBOR submissions. We believe that this chronology shows clearly that our people repeatedly raised with regulators concerns arising from the impact of the credit crisis on LIBOR setting over an extended period.
- A graph showing our 3 month USD LIBOR submissions relative to others during periods of the crisis and the occasions on which our submissions were excluded from the rate setting process as too high.

The investigation

The bank has conducted an exhaustive internal investigation over more than three years supported by external counsel. The bank has reviewed 22 million documents from over 200 custodians, over 1 million audio files and conducted more than 75 interviews. The results of the reviews were shared with the Authorities, who in turn made their own requests for documents and interviews.

In total, the bank has invested nearly £100m to ensure that no stone has been left unturned. The bank's exceptional level of cooperation was expressly recorded by each of the Authorities, and was described by the DoJ as "extraordinary and extensive, in terms of the quality and types of information provided" and "the nature and value of Barclays cooperation has exceeded what other entities have provided in the course of this investigation." That cooperation has led to Barclays being the first to reach resolution of these issues. It ironic that there has been such an intense focus on Barclays alone, caused by our being first to settle in the midst of an industry-wide, global investigation.

Disciplinary action

Many of the individuals concerned in the trader conduct, in particular, are in fact no longer with the bank. For certain individuals that remain, we took action to withhold bonus payments pending the outcome of the investigation. Now that the investigation is complete, and the full Barclays facts known, as we advised the Authorities, we are conducting a review of each individual's conduct to assess their accountability and to determine appropriate action. The full range of tools will be made available within this review.

29 October 2008 Communication from Bank of England

During October 2008, in the wake of the collapse of Lehman Brothers, when liquidity conditions had tightened acutely, Barclays raised its US Dollar LIBOR submissions more significantly than other panel members. In the month of October 2008, in particular, Barclays US Dollar LIBOR submissions for the 3 month maturity were the highest or next highest of the panel on every single day of the month and therefore excluded from the calculation of LIBOR. Barclays did not understand why other banks were consistently posting lower submissions; Barclays firmly believed that the other panel members were not, in fact, funding at a lower cost than Barclays, and we were disappointed that no effective action was taken, notwithstanding our having raised these issues with various Authorities during the whole financial crisis period as outlined in the attached timeline.

As one would expect, Barclays (including Bob Diamond and Jerry del Missier) was in close contact with the Bank of England and other Authorities about the liquidity crisis generally. On 29 October 2008, Bob Diamond received a call from Paul Tucker, the Deputy Governor of the Bank of England. The substance of that call was captured by Bob Diamond via a note prepared at the time. A copy of that note is appended to this document; it was circulated to John Varley, then Barclays Chief Executive, and Jerry del Missier, then President of Barclays Capital.

Subsequent to the call, Bob Diamond relayed the contents of the conversation to Jerry del Missier. Bob Diamond did not believe he received an instruction from Paul Tucker or that he gave an instruction to Jerry del Missier. However Jerry del Missier concluded that an instruction had been passed down from the Bank of England not to keep LIBORs so high and he therefore passed down a direction to that effect to the submitters.

There was no allegation by the Authorities that this instruction was intended to manipulate the ultimate rate. The bank's submissions had consistently been excluded from the LIBOR calculation. Moreover the instruction became redundant in a matter of days as market conditions improved.

The FSA investigated Jerry del Missier personally in relation to these events and closed the investigation without taking any enforcement action.

Ongoing legal constraints

Barclays welcomes the Treasury Committee's enquiry into these matters and the opportunity for Bob Diamond and others, including Non-Executive Directors, to provide Barclays perspective on these issues directly to you. In that regard, it is important that the Committee understand that, in certain areas, Bob Diamond's evidence will necessarily be subject to some constraints.

Firstly, the bank currently has a process underway to assess what action may be necessary in respect of individuals involved. As much as possible, the bank must respect the confidentiality of the individuals concerned whilst processes remain outstanding. There are also ongoing criminal investigations and legal proceedings.

Secondly, as a result of him being a witness to events around the credit crisis, the direct involvement of Bob Diamond (as well as some other members of senior management) in the conduct of this investigation was extremely limited and he did not receive substantive reports of the investigation. This is normal Bank procedure for such investigations. Bob Diamond first received copies of the settlement documents on Friday, 20 June, 2012.

Apart from those areas in which he was directly involved, Bob Diamond's answers may be based on briefings since receipt of the settlement documents on some quite complex factual issues occurring over a number of years.

It may therefore be necessary for Barclays to revert to the Committee in writing on particular points. If this is necessary, Barclays will ensure that the information you require is provided wherever possible and as quickly as possible.

Culture

Barclays is proud of the service that we provide our customers and clients; and the benefit that we bring through that to the communities in which we live and work.

The traders' behaviours captured within the settlement documents are not representative of the values and standards to which the vast majority of the 140,000 people that work at Barclays operate every day. Those colleagues serve with integrity; pride; and the utmost probity. They have been badly let down by the actions of a few.

Supplementary information regarding Barclays settlement with the Authorities in respect of their investigations into the submission of various interbank offered rates (AMENDED)

Barclays takes its responsibilities in fixing the issues identified in the investigations seriously; as part of that, we have actively supported the investigating authorities, and, where possible, robust action has or will be taken to hold those responsible to account.

We have a great deal to do to win back public trust – as a bank; and as an industry. Taking clear and immediate actions to ensure accountability is fundamental to that. Our internal disciplinary process is proceeding rapidly. More generally, the Board has commissioned an independent review of Barclays broader business practices. That review will be led by a senior external individual and will both externally publish its findings and develop a mandatory code of conduct for the entire organisation.

This is the start of a long journey. We are determined that we will earn back that trust.

The Committee's enquiry will be an important part of that process.

Chronology of key issues

A. 2005 to 2009 – Trader requests

- Certain traders sought to manipulate Barclays LIBOR submissions by sending requests to submitters. The majority of these were sent during 2005 to Sept 2007 and sporadically in 2008/2009. There were no further requests to submitters after May 2009.
- There was no knowledge by anyone in the bank above desk supervisor level of this conduct at the time. Senior management were not aware.
- Certain instances of these requests were discovered in the latter part of 2009 after the bank launched an internal review of its USD LIBOR submissions following the commencement of an industry-wide investigation concerning USD LIBOR initiated by the CFTC in October 2008. As the investigation widened further requests were identified, including in relation to EURIBOR.
- When discovered, the activities were promptly disclosed to the authorities.

B. Sept 2007 to April 2008 – Credit crisis: Media and market speculation

- During the credit crisis, the bank had concerns about inaccurate press speculation regarding its liquidity caused by the bank's high LIBOR submissions relative to the lower submissions of other banks.
- During periods of acute market stress in late 2007 and early 2008, Barclays USD LIBOR submissions increased relative to those of other banks. The FSA found that Barclays 3 month USD LIBOR submissions were within the highest 4 or tied with one of the highest 4 on 89% of occasions between 1 September 2007 and 31 December 2008. Barclays high LIBORs came under scrutiny relative to the low LIBORs of other banks.
- Barclays did not have a liquidity problem, and senior management were concerned about the unfounded negative perceptions.

- Barclays believed that other banks were making LIBOR submissions that were too low and did not reflect market conditions.
- Less senior managers gave instructions to Barclays submitters to lower their LIBOR submissions. The origin of these instructions is not clear.
- The evidence shows that the intent was to protect Barclays from the unfounded negative perceptions by bringing Barclays LIBORs closer to the pack but not to affect the ultimate rate. The US Dollar LIBOR submissions were still so high, that they were regularly being omitted from the LIBOR calculation (see the attached document *Barclays LIBOR submissions relative to the panel*).
- During this period, Barclays was consistently raising concerns with the BBA, questioning why other banks' LIBOR submissions appeared to be so low compared to those of Barclays. Many of these concerns were based upon Barclays observations that other banks were making submissions which were lower than levels at which they appeared to be undertaking transactions. Subsequent research by the New York Federal Reserve staff members concluded that banks LIBOR quotes were systematically below their borrowing rates by 39 basis points after the Lehman bankruptcy. Barclays own submissions for tenors of 1 month to 1 year LIBOR were higher than actual Barclays trades on 97% of the occasions when Barclays had actual trades during the financial crisis.
- Barclays also raised concerns with the FSA, the Bank of England and the US Federal Reserve. The documented occasions on which Barclays made such contact are illustrated in the attached document *Timeline of regulatory contact*.
- The bank first discovered the issues relevant to the period regarding the credit crisis during the early stages of its investigation in 2009 and the bank has since thoroughly investigated and reported to the authorities regularly on these issues.
- The Authorities have not alleged any intention to manipulate the ultimate LIBOR rates as a result of this conduct during the financial crisis period.

C. October 2008 – Credit crisis: Bank of England

- In October 2008, following the collapse of Lehman Brothers, liquidity once again rapidly dissipated. Barclays increased its USD LIBOR submissions resulting in it being at the top of the pack again.
- During October 2008 Barclays was the highest or one of the higher submitters in the substantial majority of the time. Barclays US Dollar LIBOR submissions for the 3 month maturity were the highest or next highest of the panel on every single day of the month, and therefore excluded from the calculation of LIBOR.
- As one would expect Barclays (including Bob Diamond and Jerry del Missier) was in close contact with the Bank of England and other Authorities about the liquidity crisis generally. There was a call from the Bank of England to Bob Diamond on 29th October 2008. A note of that conversation is attached to this document.
- The content of that conversation was passed to Jerry del Missier.

- Bob Diamond did not think he had received an instruction from Paul Tucker or that he gave an instruction to Jerry del Missier.
- However Jerry del Missier concluded that an instruction had been passed down from the Bank of England not to keep LIBORs so high. He passed down an instruction to that effect to the submitters.
- The intent was not to affect the ultimate LIBOR rate as Barclays was regularly being excluded from the calculation.
- This instruction became redundant after a few days as liquidity flowed back into the market.
- Again, the Authorities have not alleged any intention by Barclays to manipulate the ultimate LIBOR rates as a result of this conduct during the financial crisis period.
- The FSA investigated Jerry del Missier personally in relation to these events and closed the investigation without taking any enforcement action.

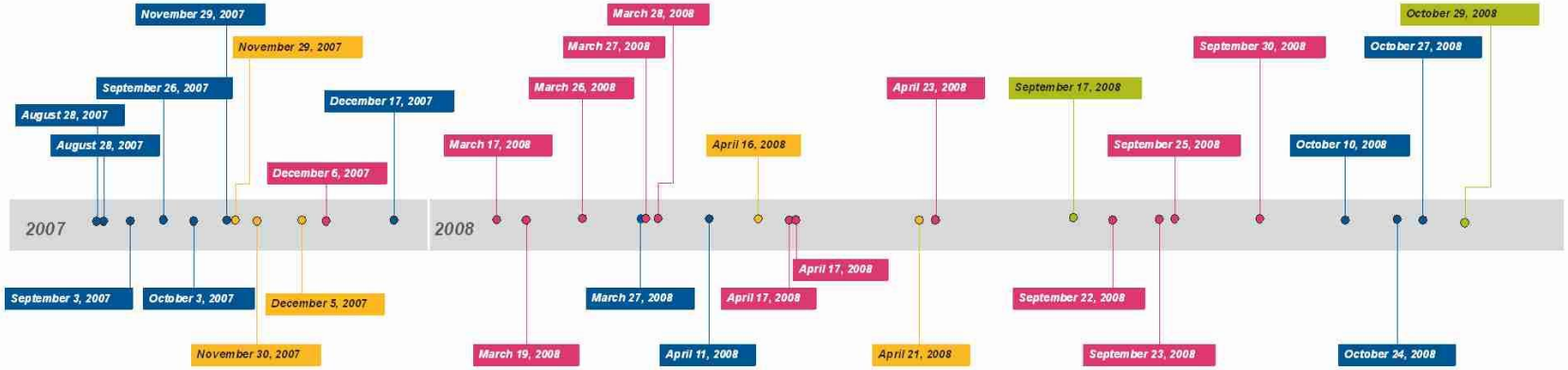
D. Jan 2005 to May 2010 – systems and control issues and compliance failings

- The bank had not anticipated the increased risk around the LIBOR process, generated in periods of very low liquidity. Barclays, along with many other market participants, viewed LIBOR as low risk, and the controls which were in place were therefore inadequate.
- As the investigation progressed and findings emerged, systems and controls were enhanced to prevent recurrence.

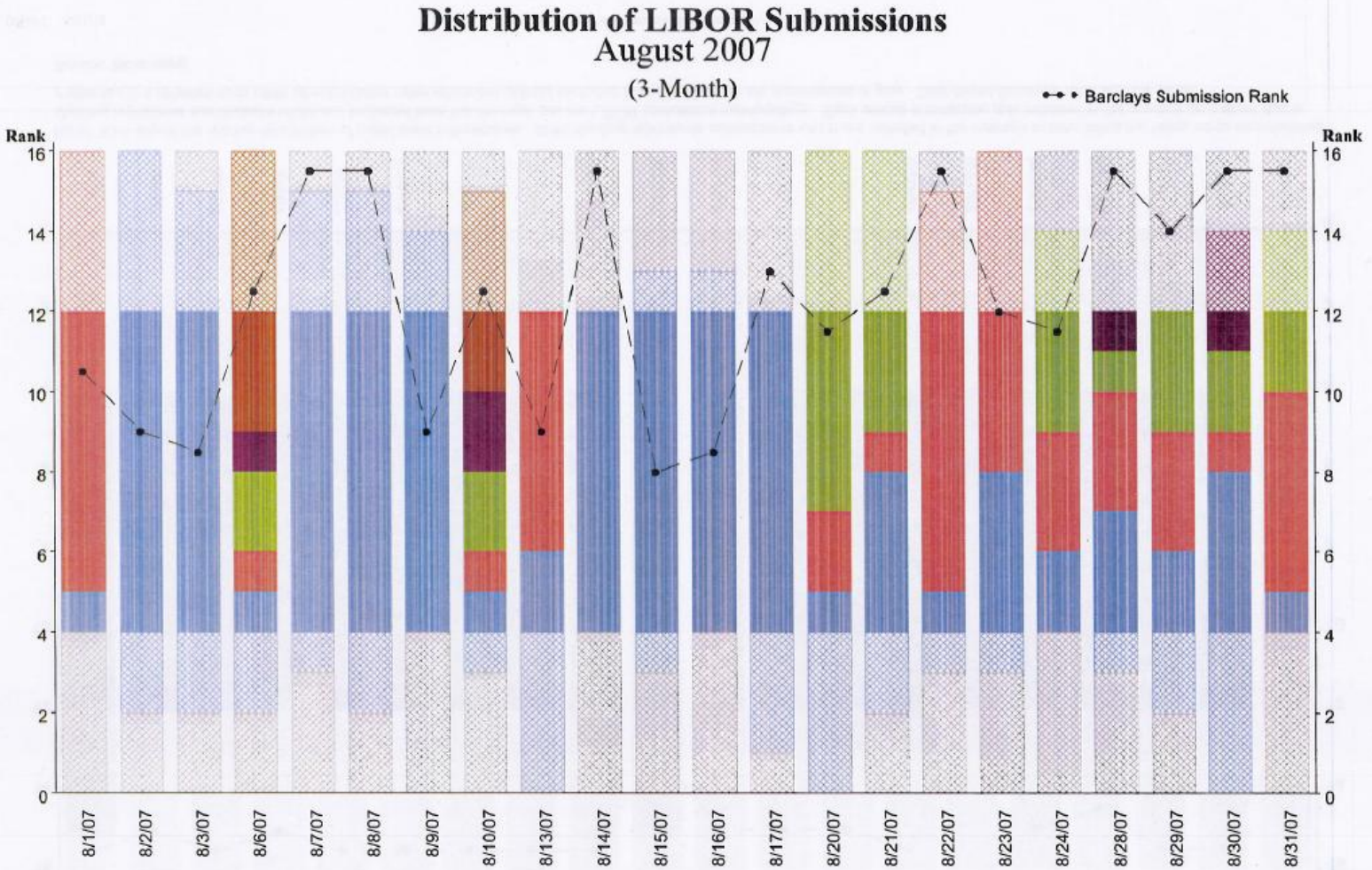
Barclays Contact with Authorities 2007–2008

KEY		
Color	Abbreviation	Agency Name
	BOE	Bank of England
	BBA	British Bankers' Association
	Fed	Federal Reserve Bank
	FSA	Financial Services Authority

Timeline summary of the principal documented contacts between Barclays and the Authorities (in the key above) during the financial crisis period relating to LIBOR submissions



BARCLAYS



Note: Bars depict the relative distribution of panel bank submissions. Solid shading represents submissions which are included in the average in calculating the fixing, while crosshatched shading represents submissions which are excluded from the average, per the LIBOR calculation methodology. Each unique submission rate included in the average on a given day is presented in a different color while all submission rates which are entirely excluded from the average are represented in gray. Dots depict Barclays' rank with the panel.

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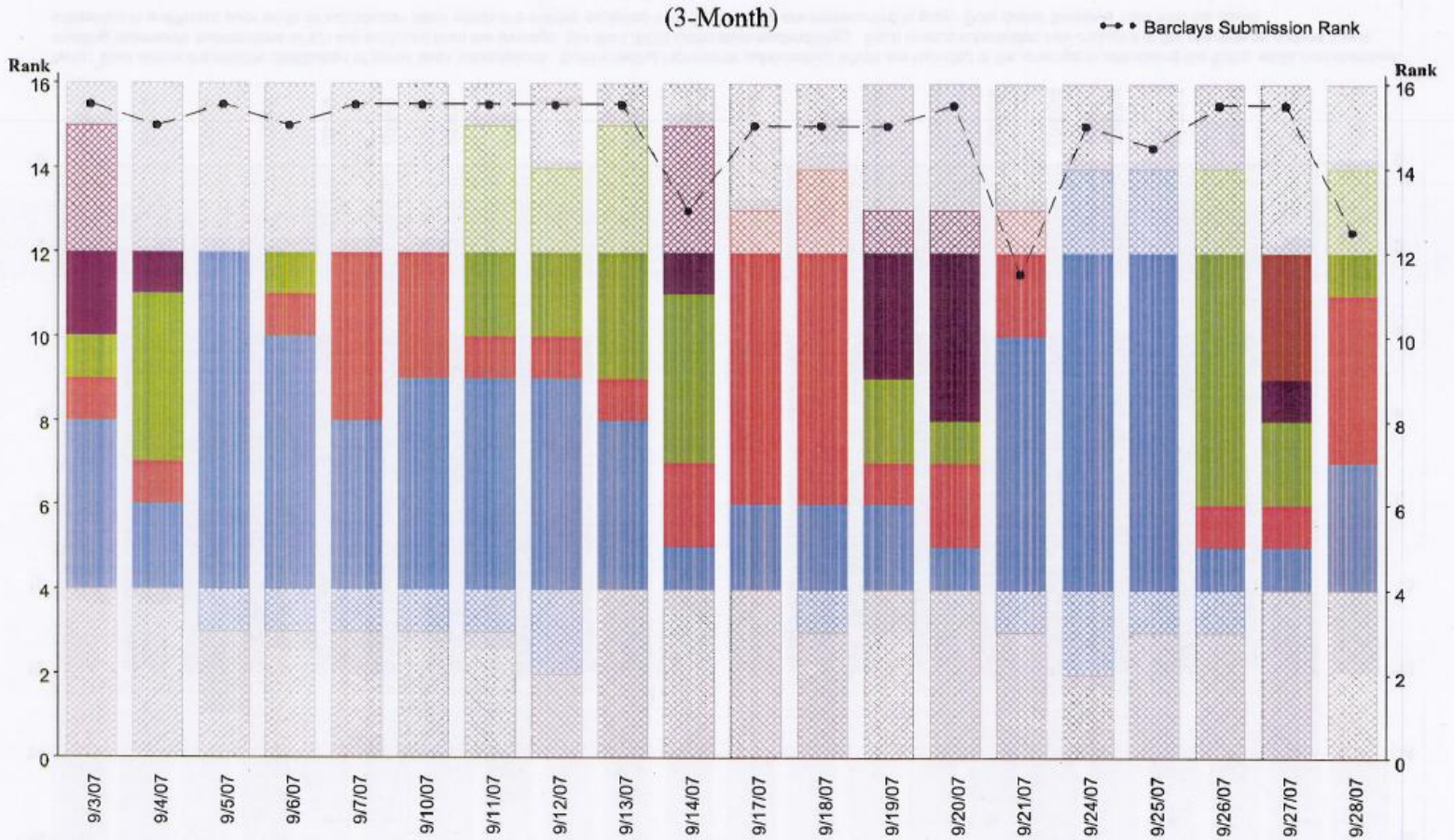

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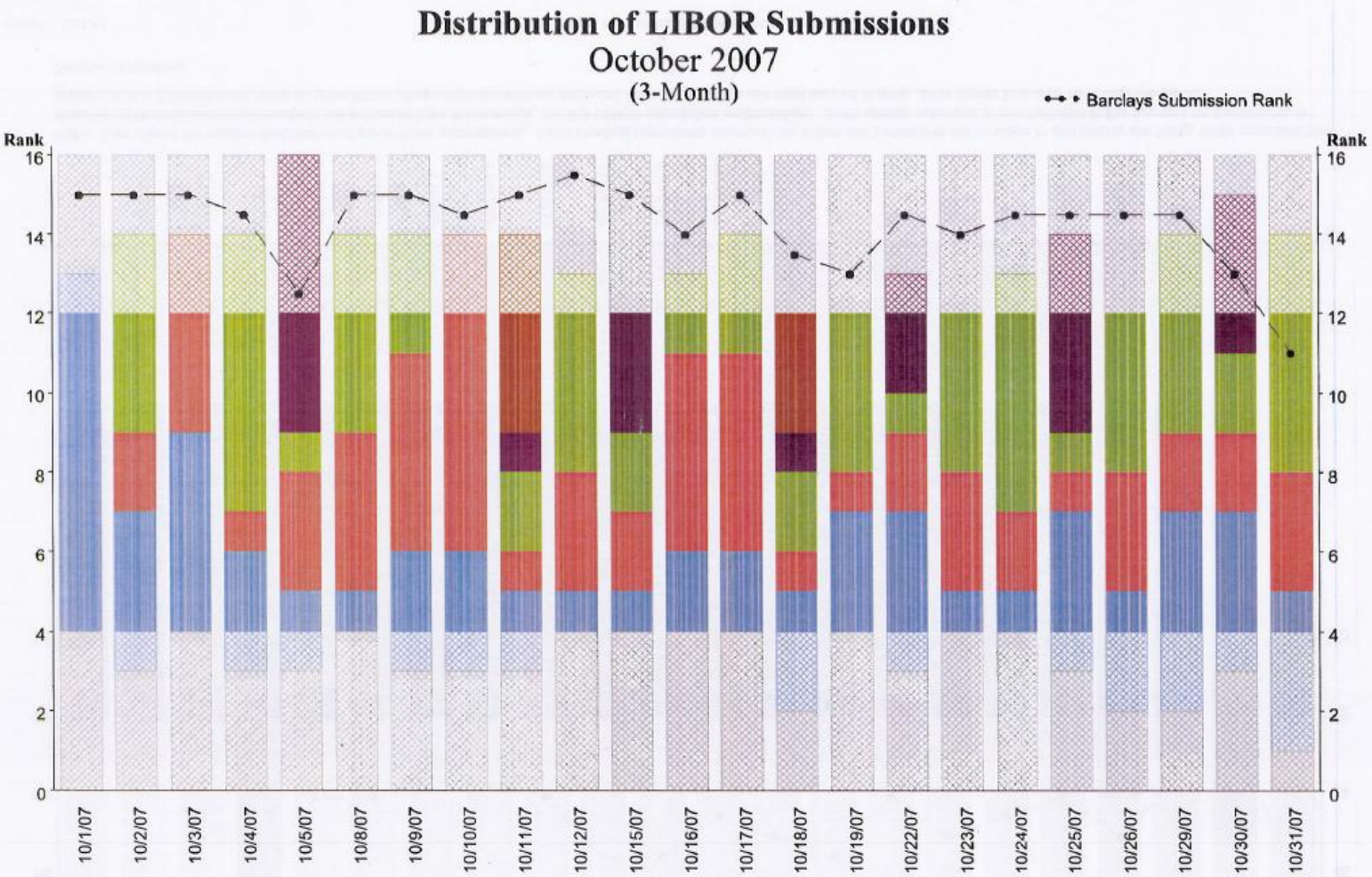

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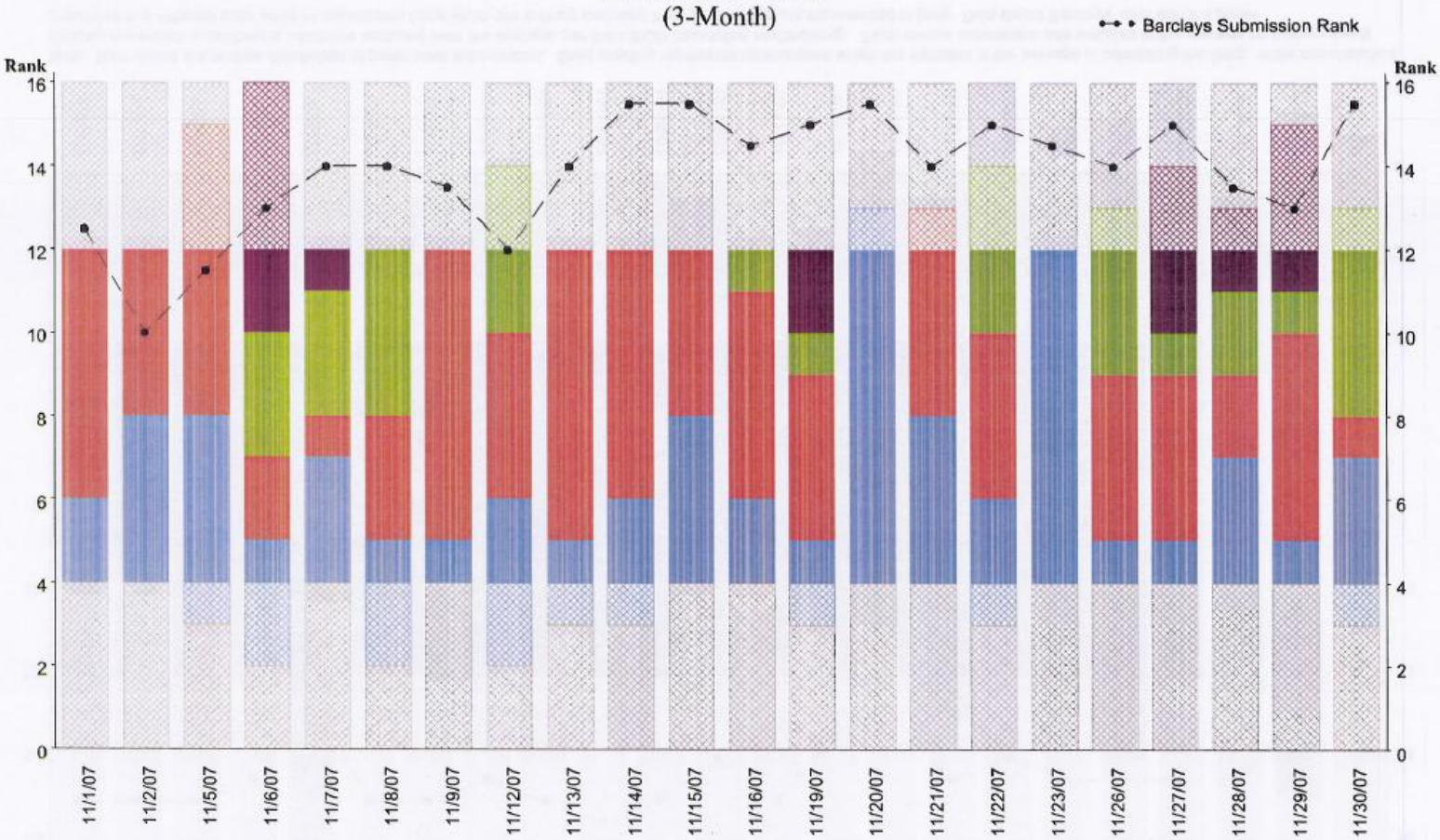

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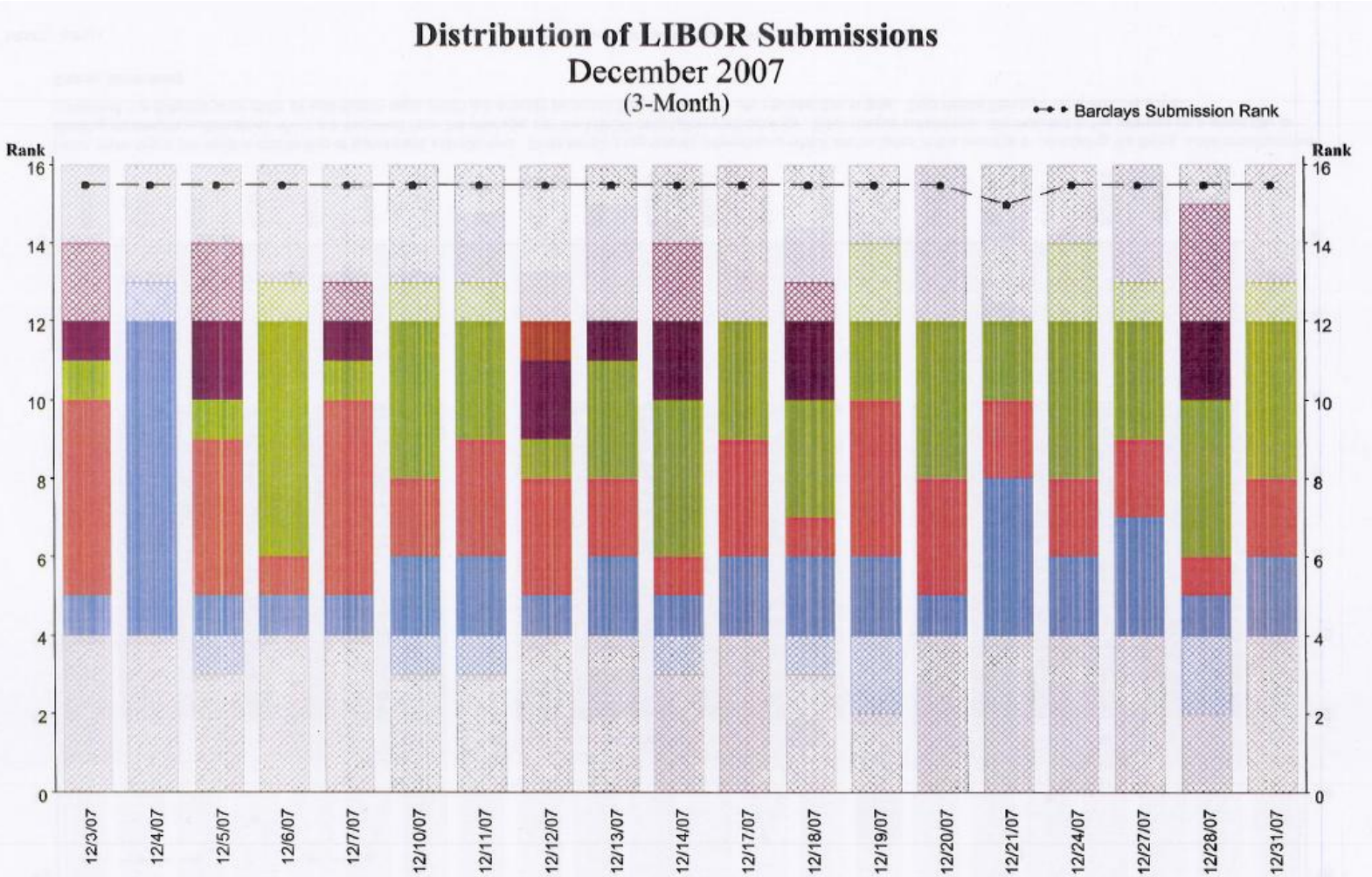

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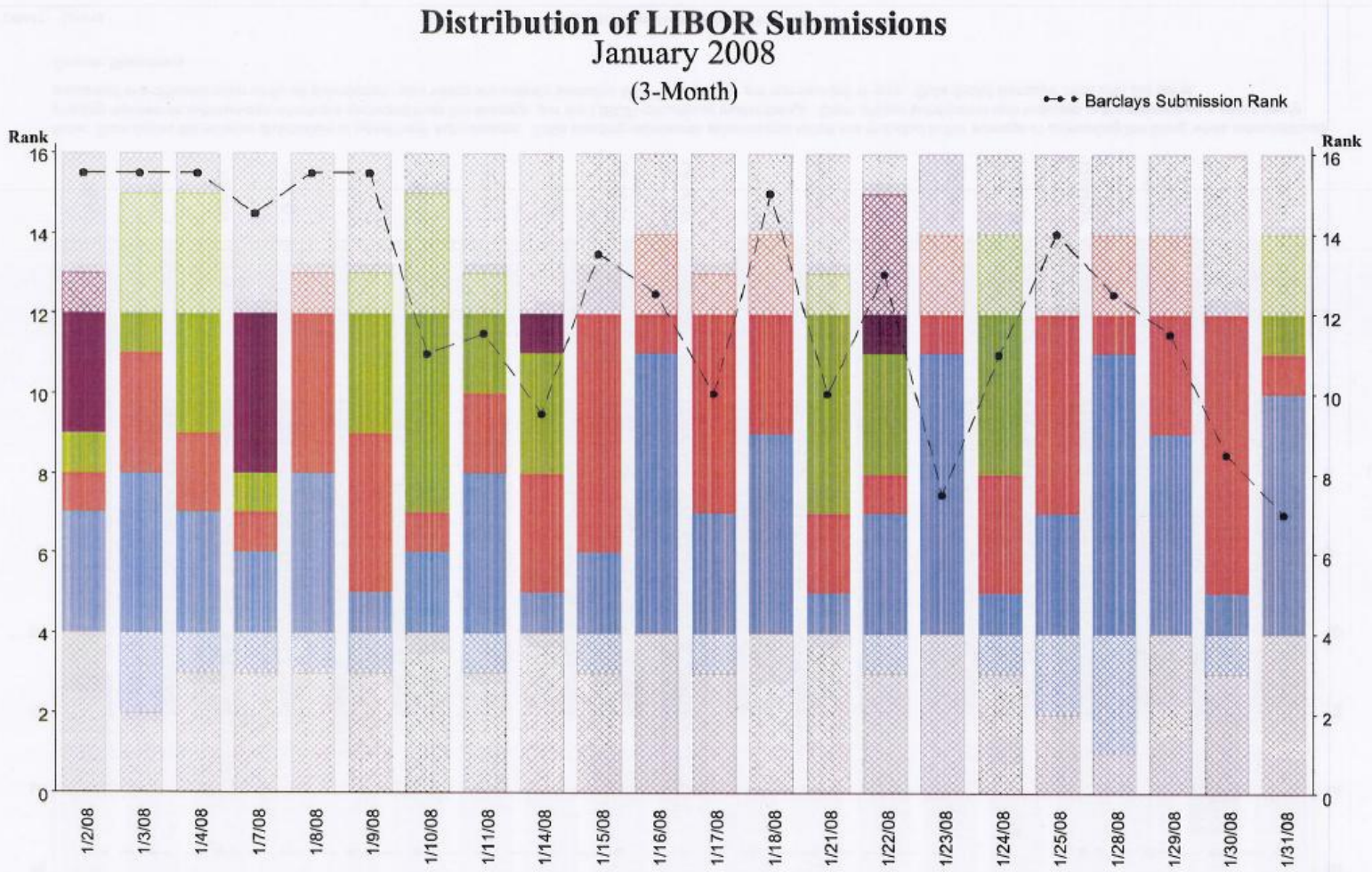

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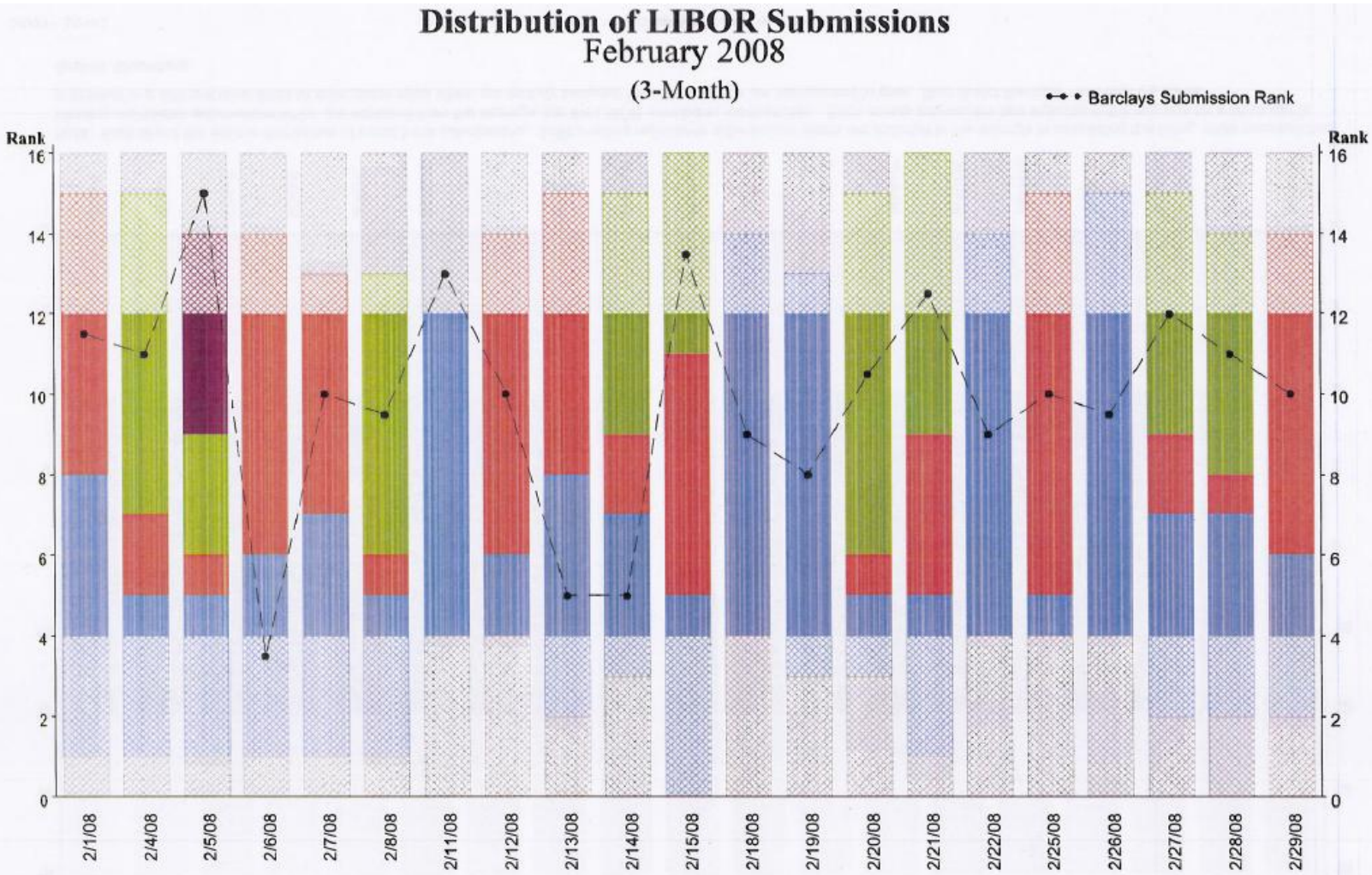

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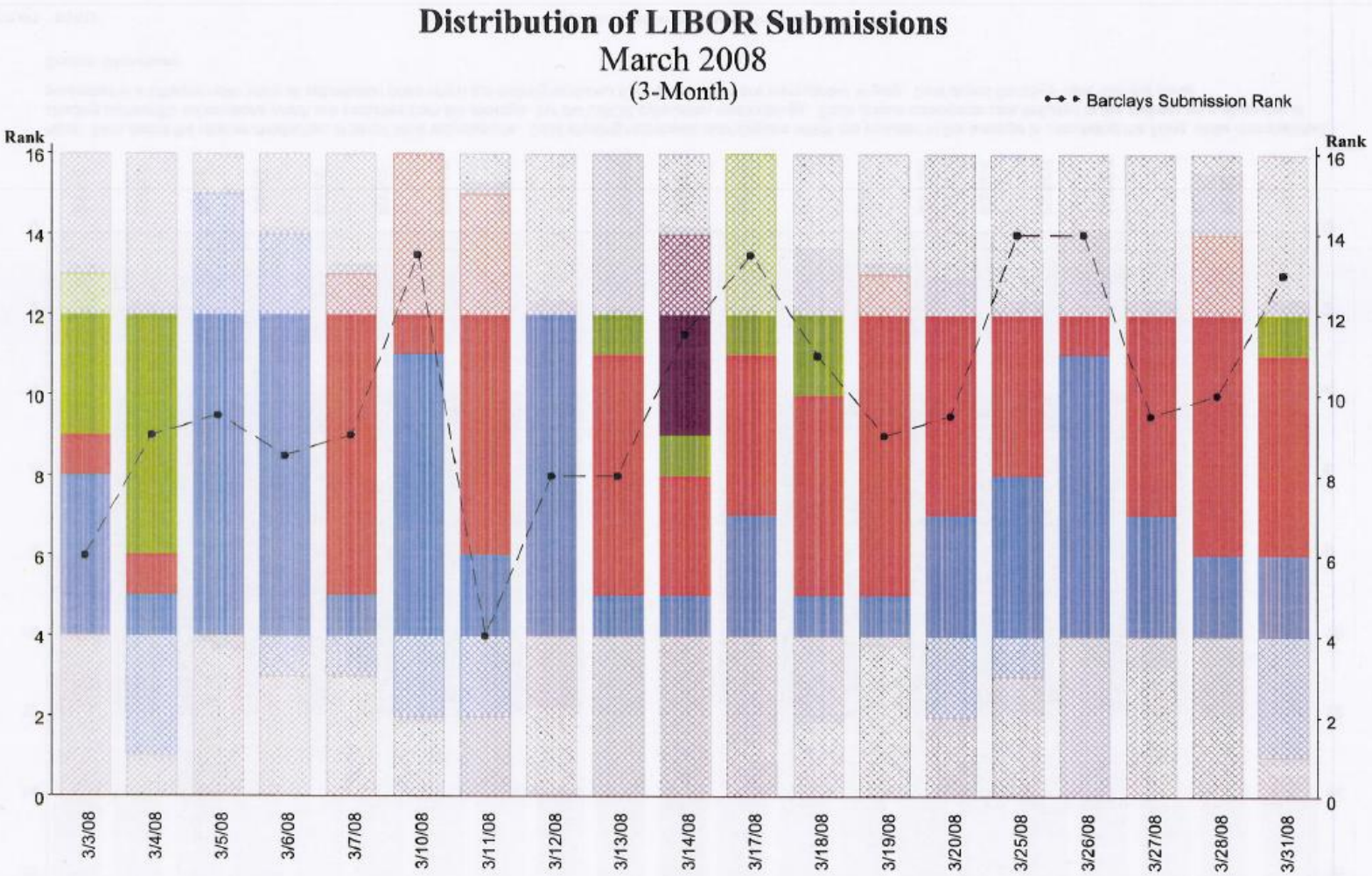

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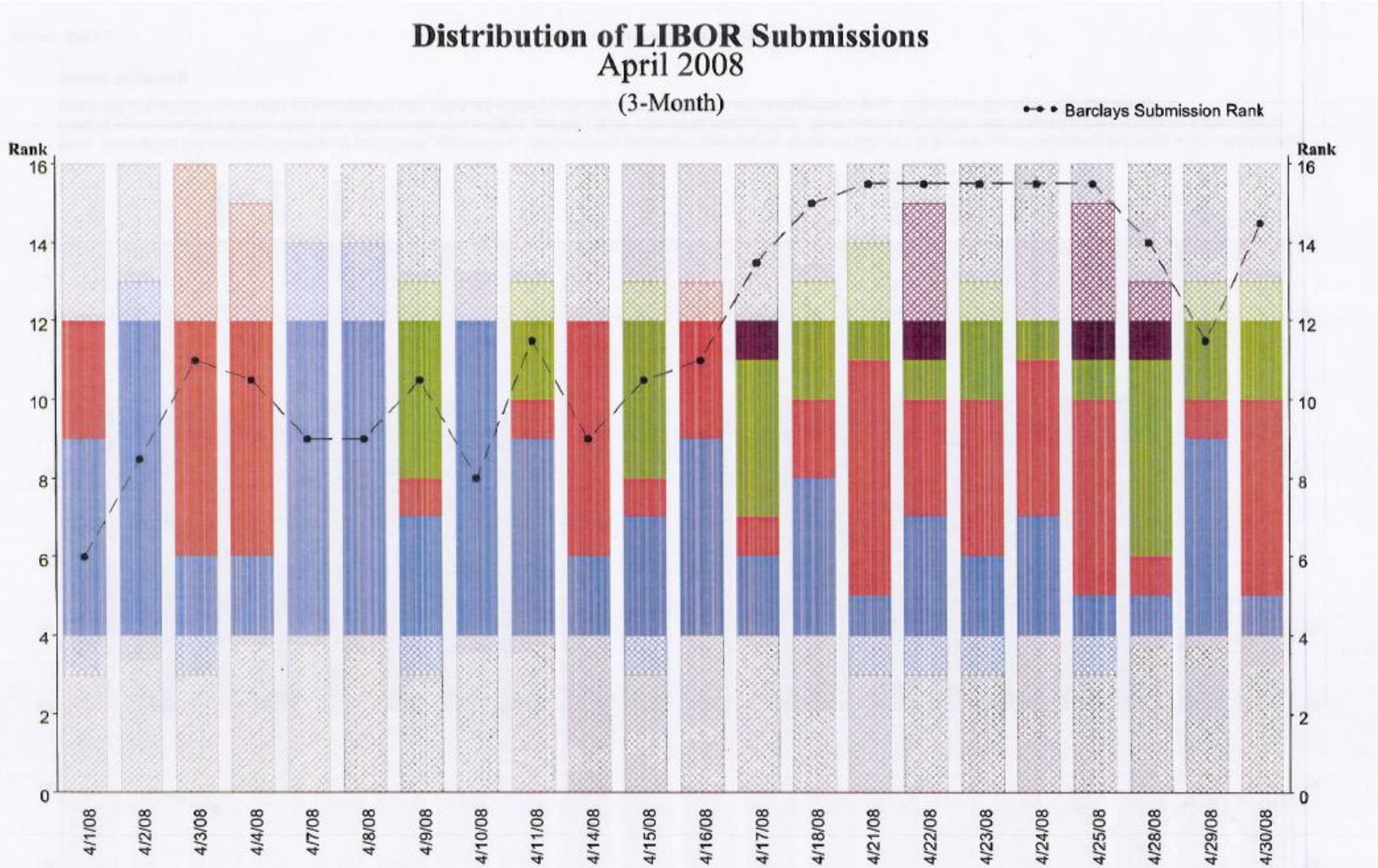

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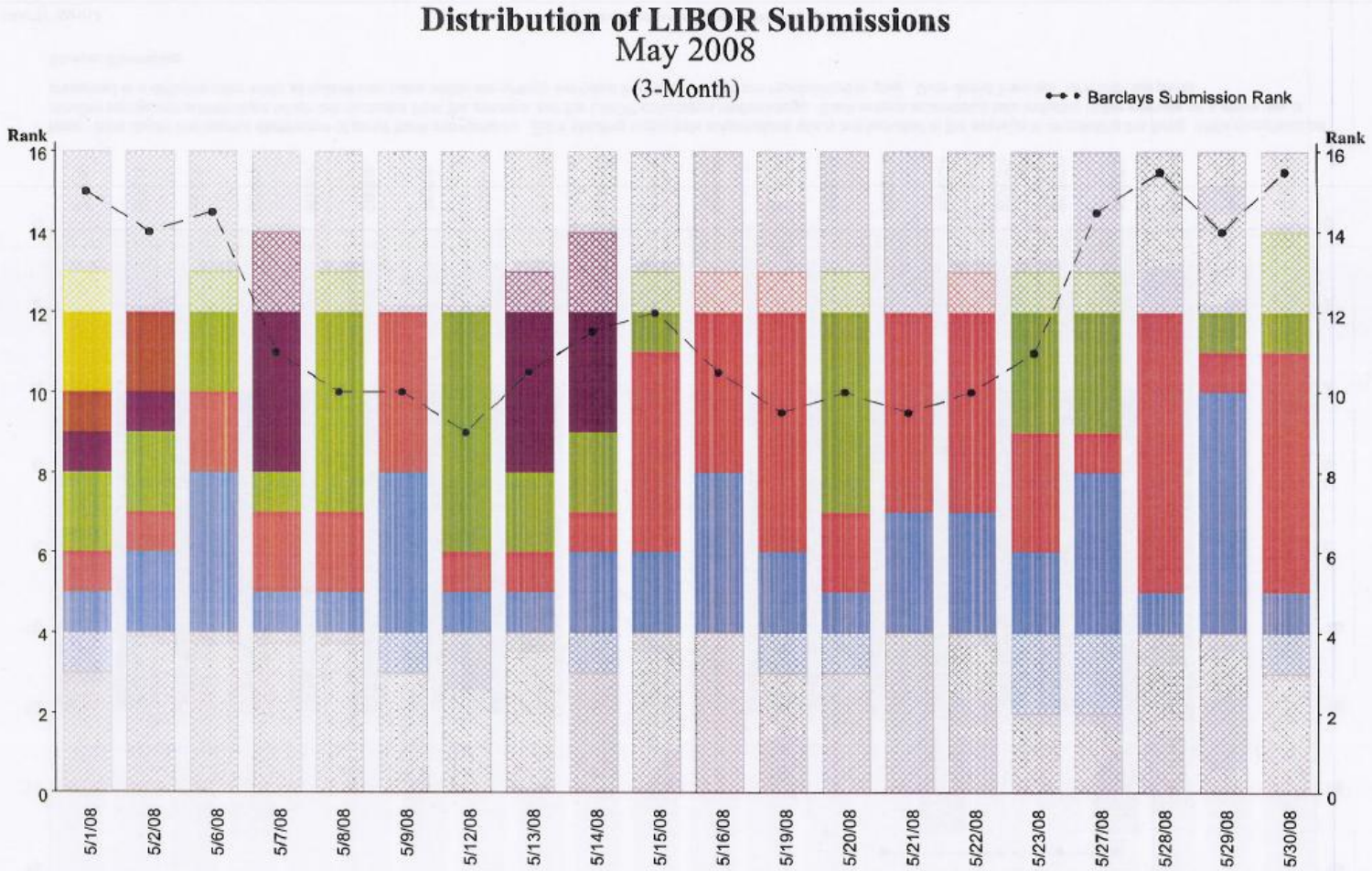

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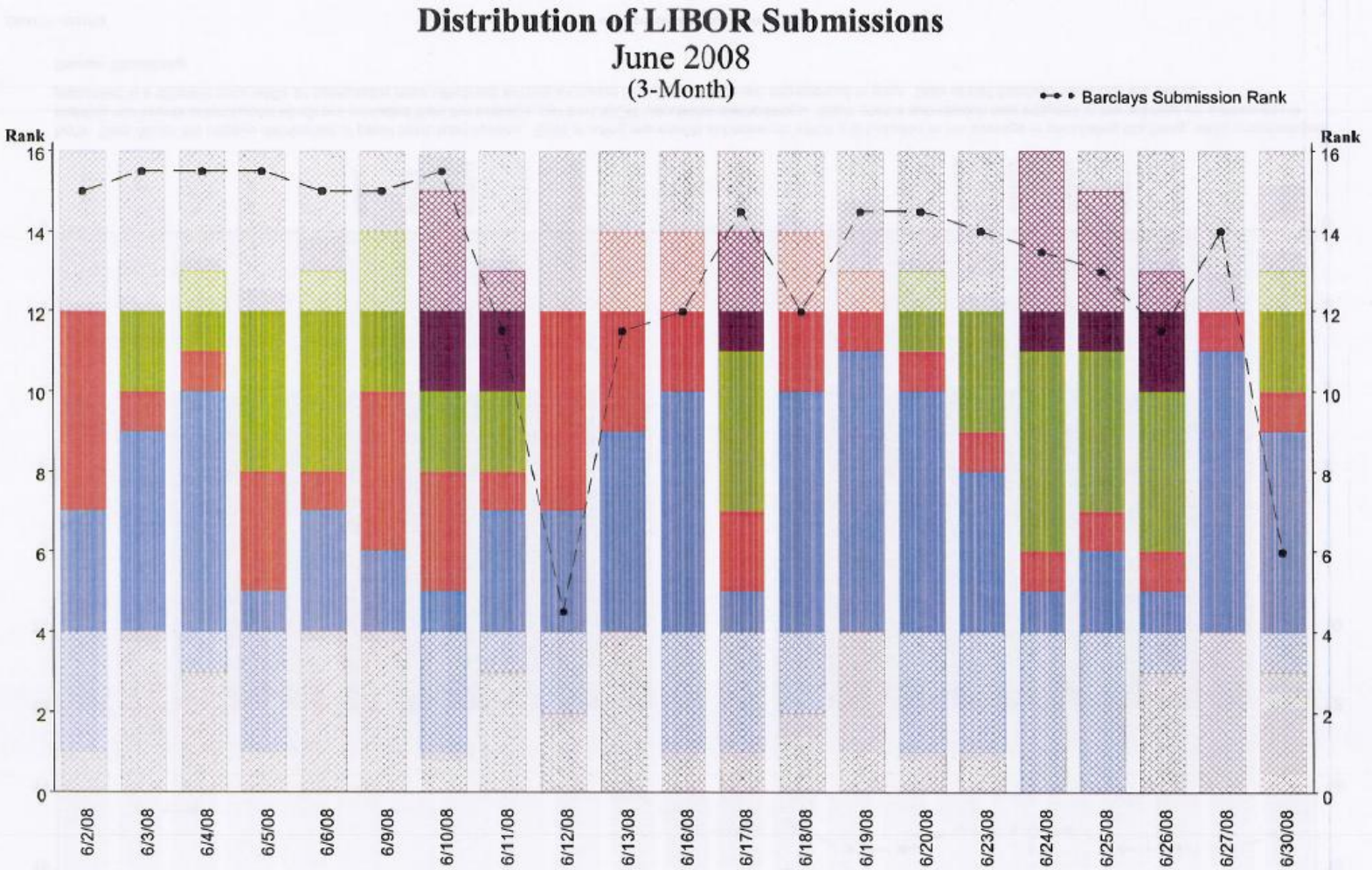

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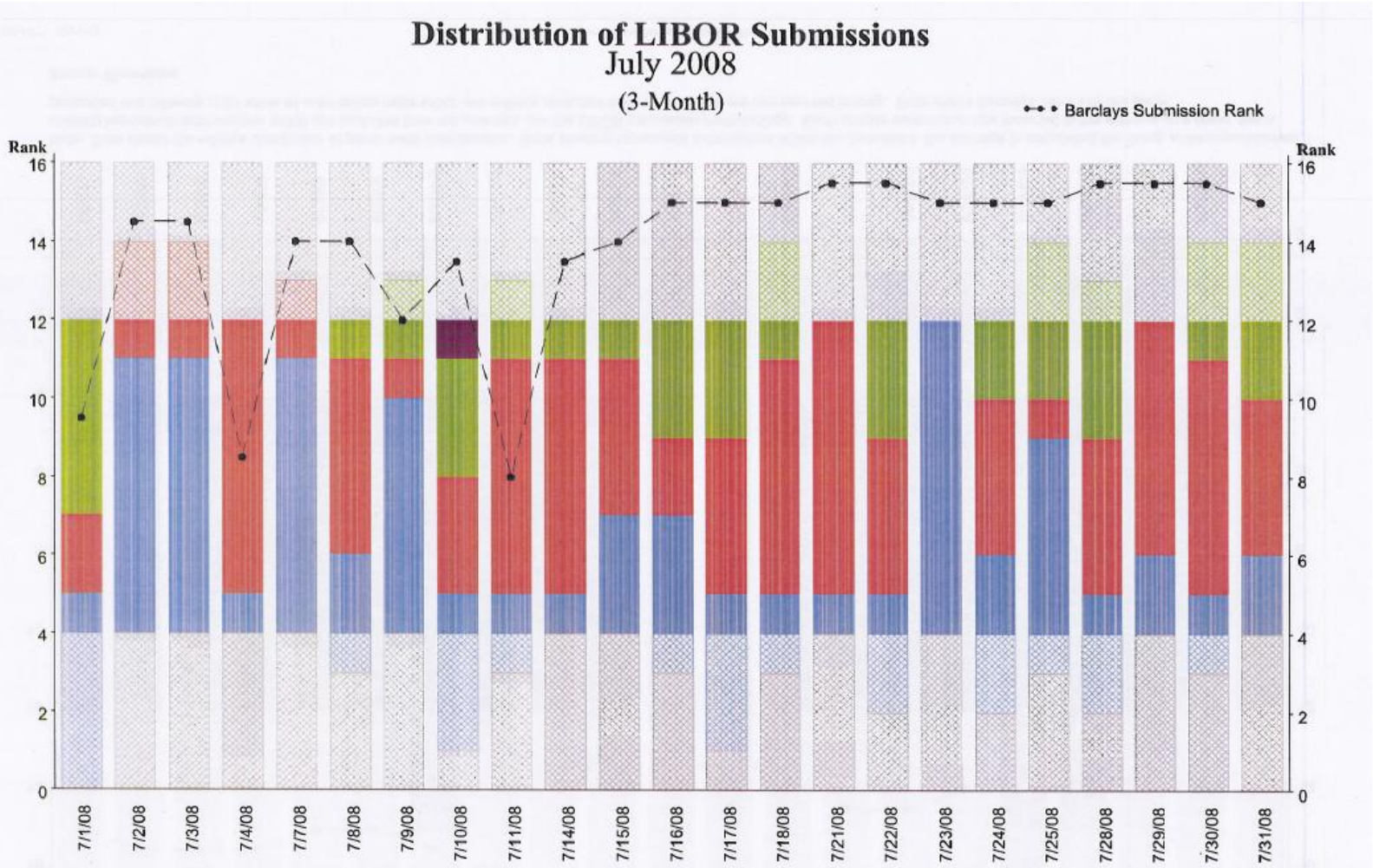

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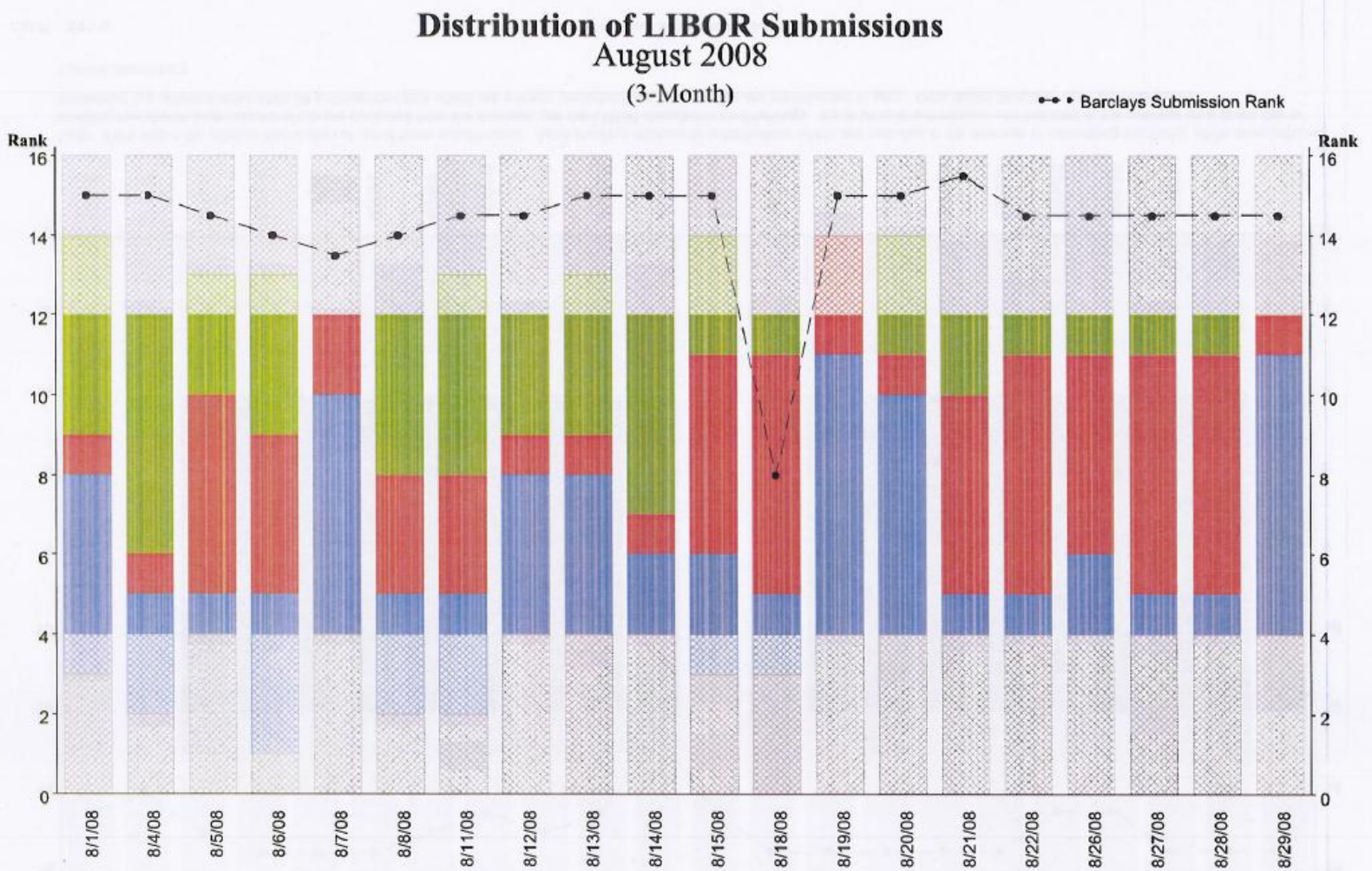

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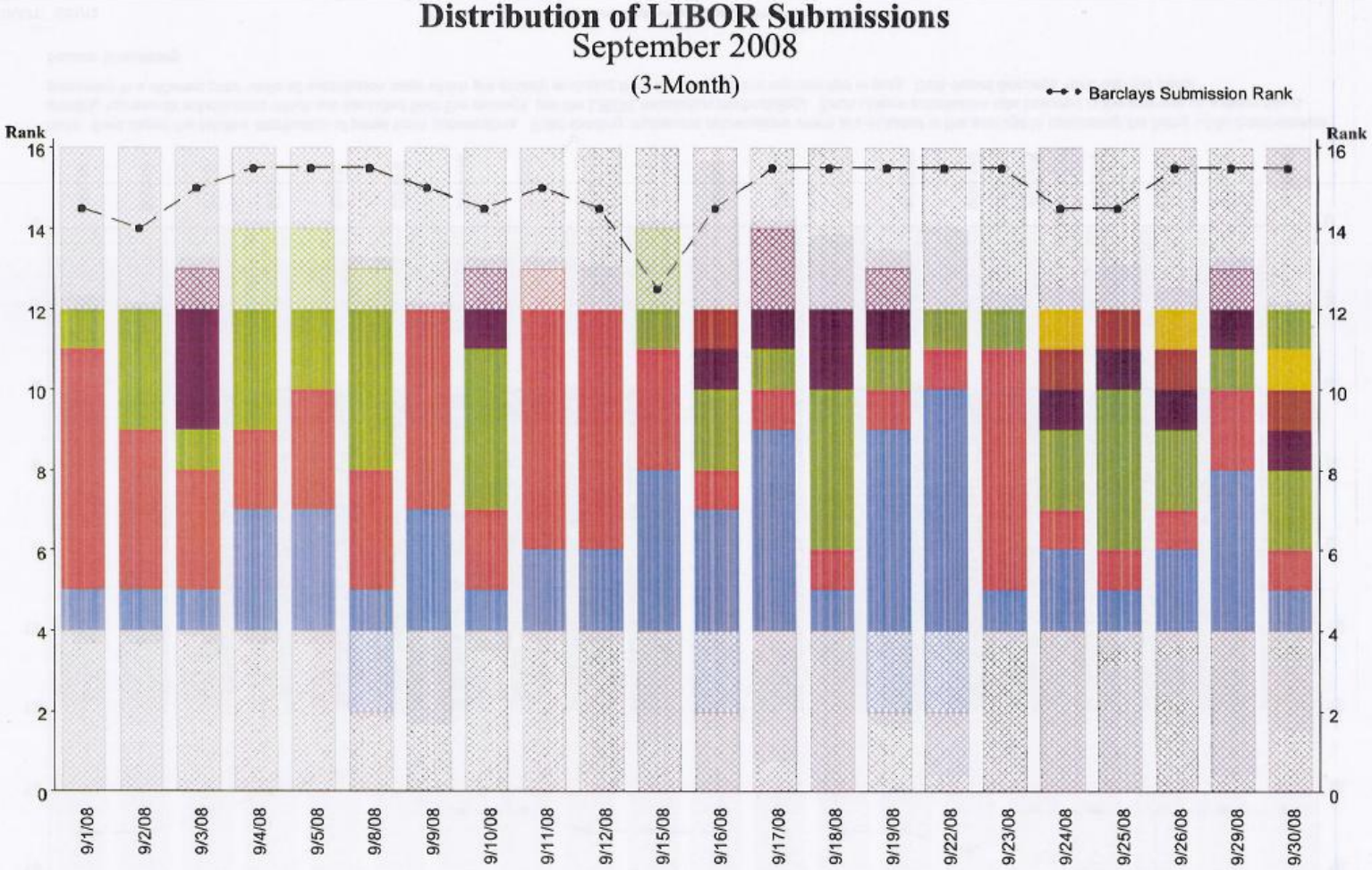

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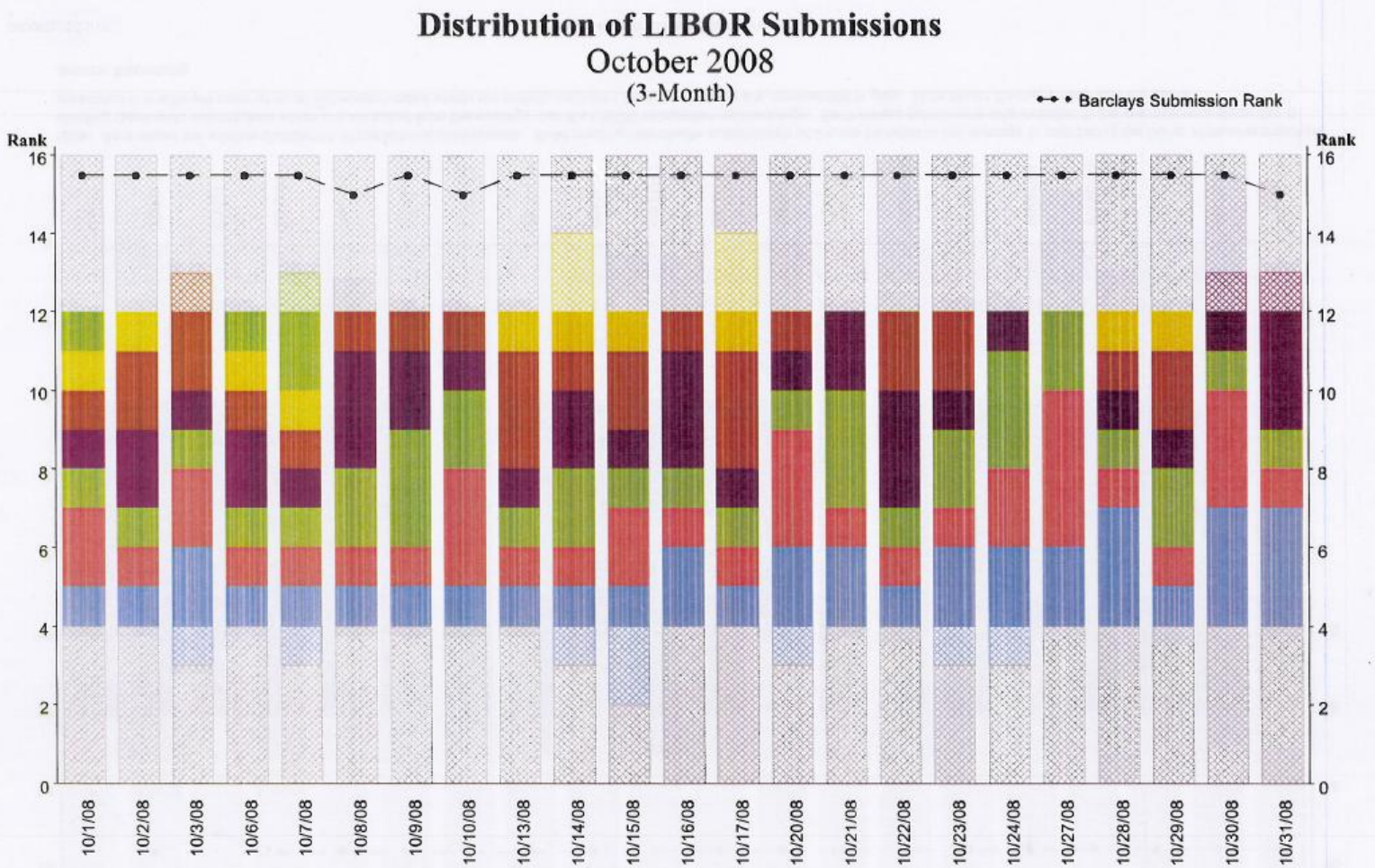

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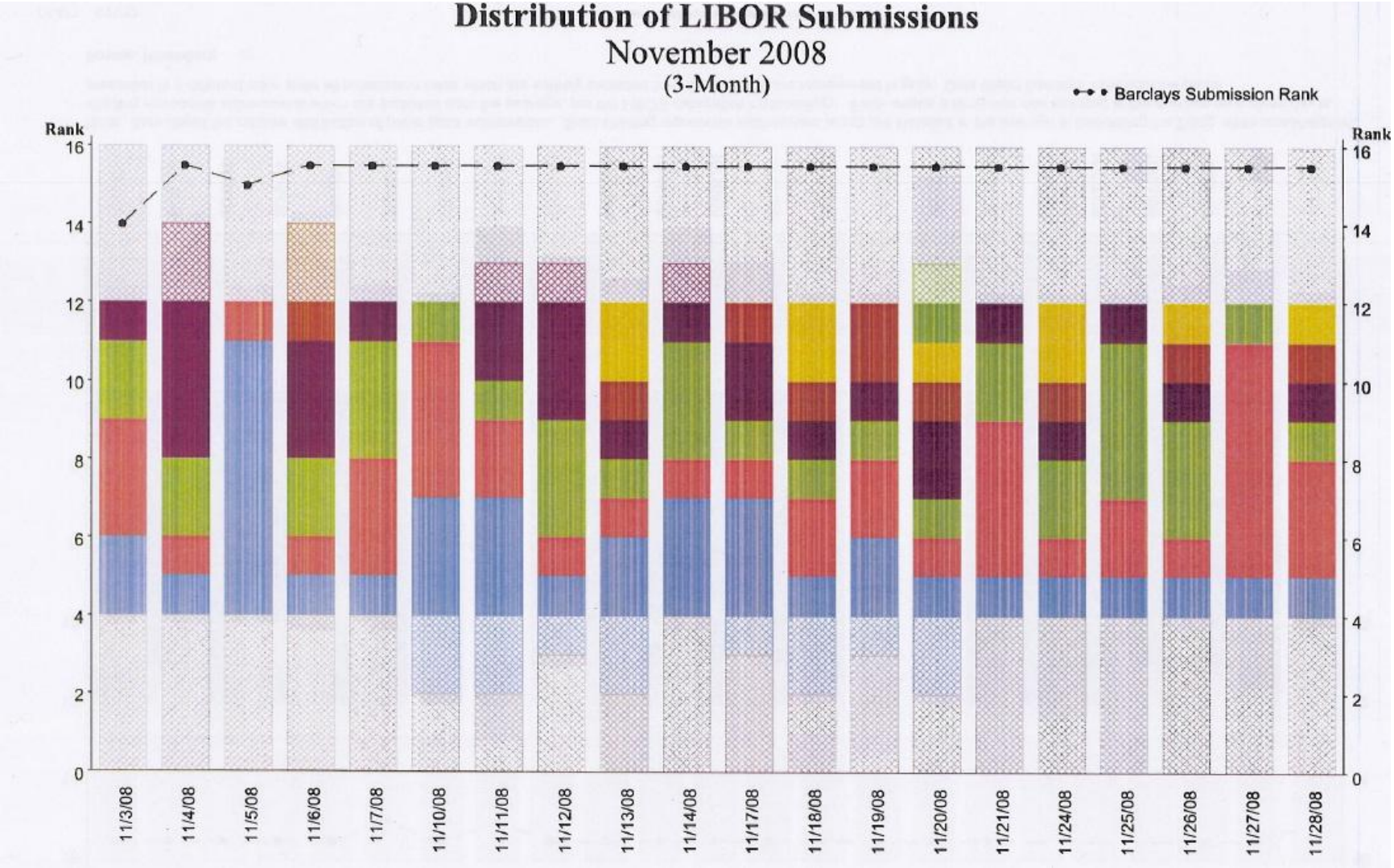
Distribution of LIBOR Submissions
November 2008
(3-Month)
Barclays Submission Rank
Rank
16
14
12
10
8
6
4
2
0
11/3/08
11/4/08
11/5/08
11/6/08
11/7/08
11/10/08
11/11/08
11/12/08
11/13/08
11/14/08
11/17/08
11/18/08
11/19/08
11/20/08
11/21/08
11/24/08
11/25/08
11/26/08
11/27/08
11/28/08

From:	Diamond, Bob: Barclays Capital
Sent:	10/30/2008 14:19:54
To:	Varley, John: Barclays PLC
Cc:	del Missier, Jerry: Barclays Capital (NYK)
Subject:	File note: Bank of England call

Fyi

File Note: Call to RED from Paul Tucker, Bank of England

Date: 29th October 2008

Further to our last call, Mr Tucker reiterated that he had received calls from a number of senior figures within Whitehall to question why Barclays was always toward the top end of the Libor pricing. His response was "you have to pay what you have to pay". I asked if he could relay the reality, that not all banks were providing quotes at the levels that represented real transactions, his response "oh, that would be worse".

I explained again our market rate driven policy and that it had recently meant that we appeared in the top quartile and on occasion the top decile of the pricing. Equally I noted that we continued to see others in the market posting rates at levels that were not representative of where they would actually undertake business. This latter point has on occasion pushed us higher than would otherwise appear to be the case. In fact, we are not having to 'pay up' for money at all.

Mr Tucker stated the levels of calls he was receiving from Whitehall were 'senior' and that while he was certain we did not need advice, that it did not always need to be the case that we appeared as high as we have recently.

RED