LIBOR IMLA Presentation

LIBOR and Municipal Finance Class Action Litigation

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LIBOR Definition

Definition

Every contributor bank is asked to base their bbalibor submissions on the following question:

"At what rate could you borrow funds, were you to do so by asking for and then accepting inter-bank offers in a reasonable market size just prior to 11 am?"

- BBA website

LIBOR's Importance

BBA LIBOR: the world's most important number

- BBA website

The senior [Barclays'] compliance officer . . . informed FSA of the following: that Barclays believed that LIBOR submissions by the panel banks were distorted . . . ; that **Barclays had concerns about the trillions of dollars of derivatives fixed off LIBOR** . . .

- CFTC Barclays' Order

Impact on Cities

Sifma Bonds & LIBOR Swaps:

- Many cities sold variable rate bond offerings to banks beginning in 1990s
- Many cities entered interest rate swaps with banks to offset these variable interest rates
- However, most cities paid Sifma on muni bond offerings and received LIBOR on swaps

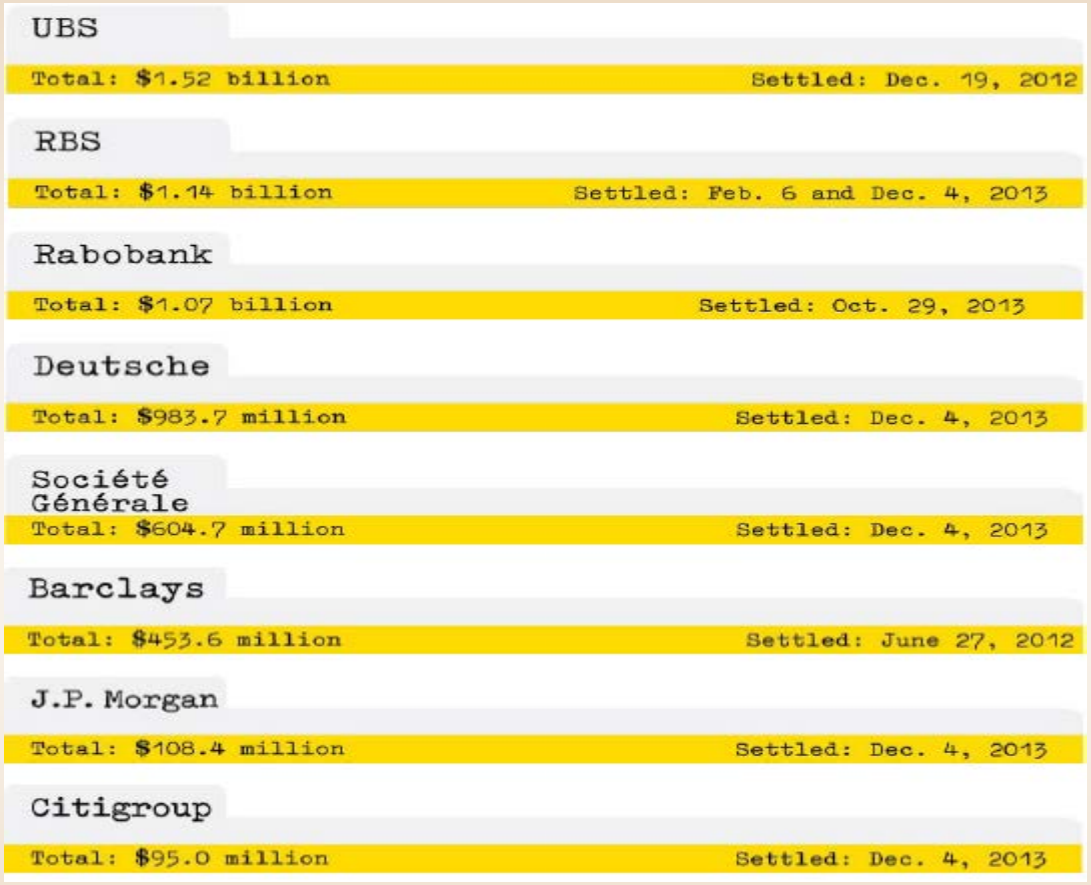
Sifma v LIBOR

- Sifma and LIBOR historically moved similarly
- During LIBOR collusion, LIBOR and Sifma diverged
- As a result of LIBOR collusion, LIBOR rates fell much faster than Sifma rates

Impact on Cities:

- Cities that received LIBOR and paid Sifma were harmed by LIBOR suppression
- Many municipal swap contracts were based on 67% of Libor
- Assuming $300 billion in swaps outstanding, at least $600 million lost by cities per year

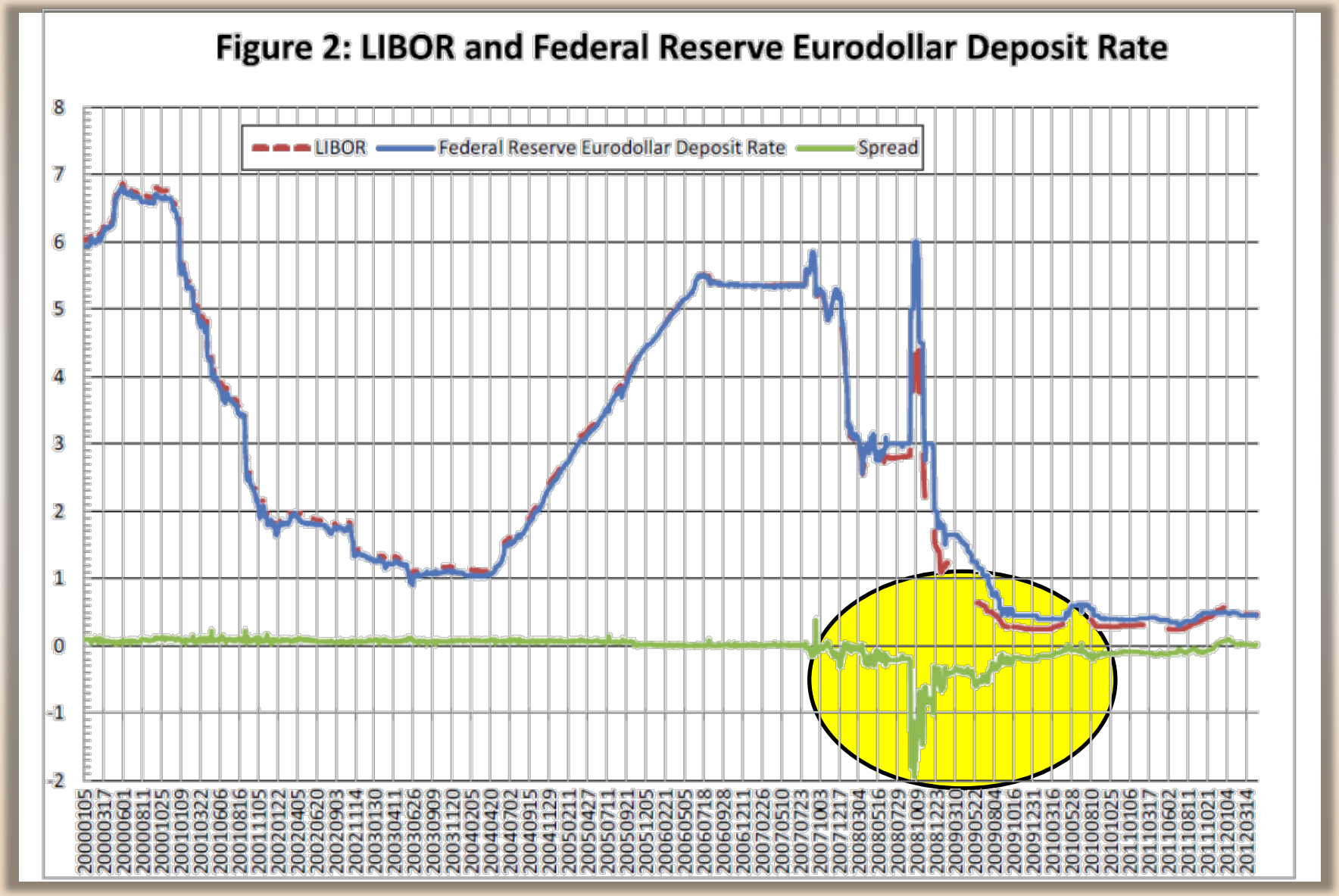
LIBOR Settlements with Regulators



Lloyds: $370 million Settled: Jul. 28, 2014

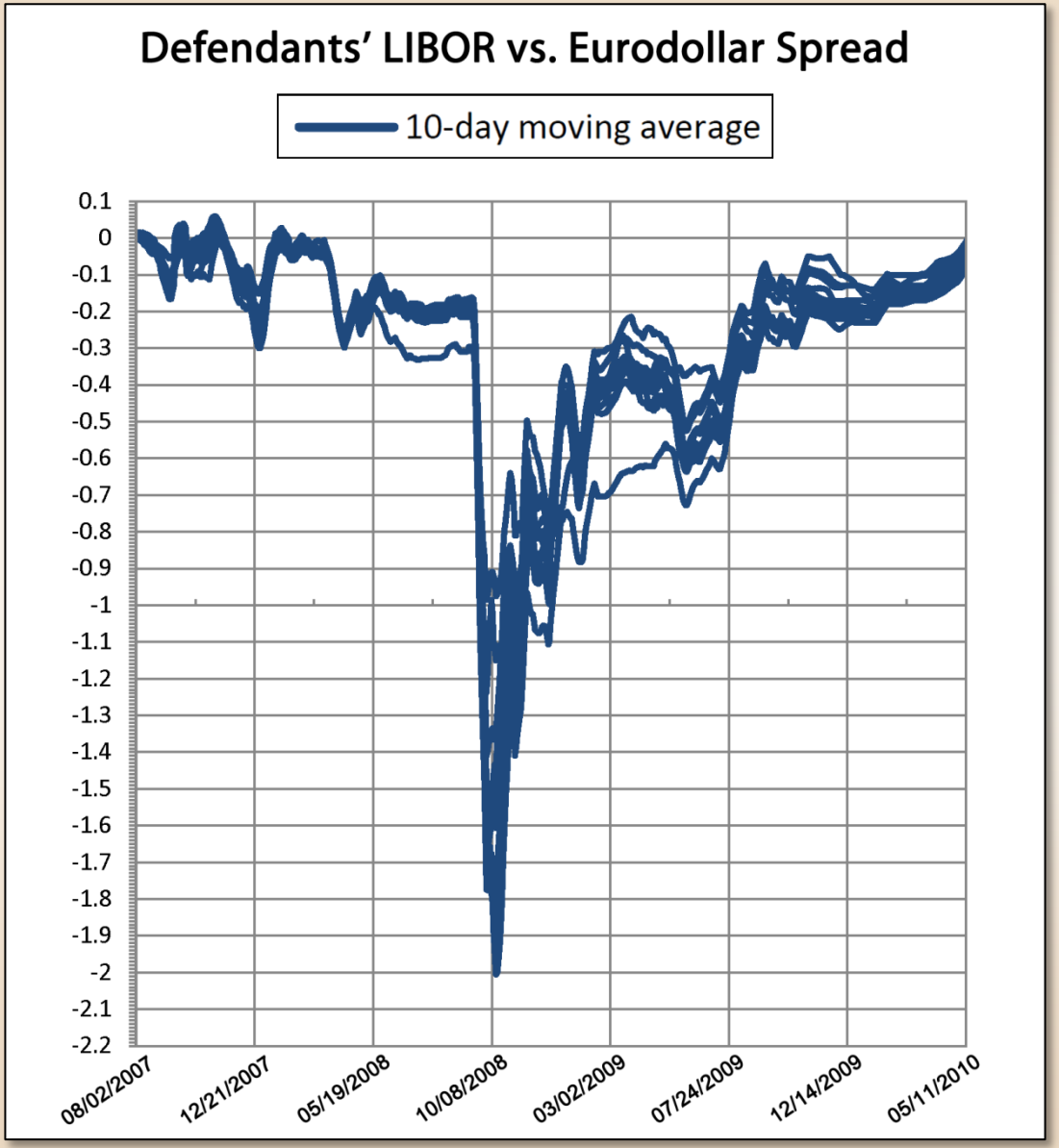
TOTAL: Over $6.2 Billion

USD LIBOR vs Eurodollar Spread



Source: OTC Complaint ¶ 75

Defendants' Uniform Pattern of Suppression



Source: Composite of Complaint Figures 4-19

Defendants' Uniform Magnitude of Suppression

DEFENDANT NAME	Average Spread During Class Period
1. Bank of Tokyo-Mitsb.	-25 basis points
2. Bank of America	-30 basis points
3. Barclays	-25 basis points
4. Citi	-32 basis points
5. CSFB	-27 basis points
6. Deutsche Bank	-31 basis points
7. HBOS	-29 basis points
8. HSBC	-32 basis points
9. JP Morgan Chase	-35 basis points
10. Lloyds	-30 basis points
11. Norin Bank	-25 basis points
12. Rabo Bank	-32 basis points
13. Royal Bank of Canada	-28 basis points
14. Royal Bank of Scotland	-26 basis points
15. UBS	-29 basis points
16. West	-35 basis points

Source: OTC Complaint ¶ 84

Defendants Suppress in Pack

occasions, those employees did not provide full and accurate information during their conversations with these external parties. Further, at least one occasion when Barclays's Dollar LIBOR submissions were questioned by the media, Barclays responded that Barclays always posted correct LIBORs.

43. As an example of one communication between a Barclays employee and a representative of the BBA, on November 29, 2007, a Barclays manager ("Manager-1") contacted a representative of the BBA ("BBA Representative-1") and said that s/he was "just talking off the record" so that BBA Representative-1 would be "aware" of Dollar LIBORs. Manager-1 stated that Dollar "LIBORs are being set lower than where they ought to be." Manager-1 explained that Contributor Panel banks are submitting rates that are too low because "banks are afraid to stick their hea
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Barclays was posting h
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letter to the Contributo

44. As another
2008, the BBA issued
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in their submitted rates

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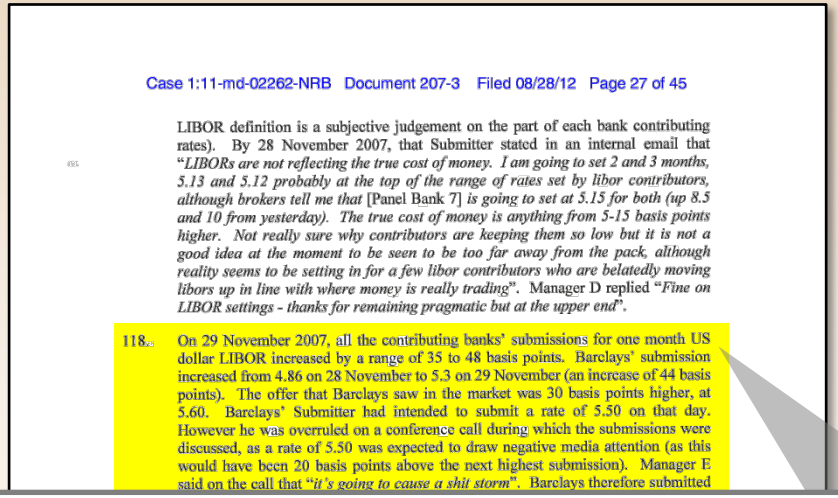
Source: DOJ SOF ¶ 43

Defendants Share LIBORs to Stay in Pack



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LIBOR definition is a subjective judgement on the part of each bank contributing rates). By 28 November 2007, that Submitter stated in an internal email that "*LIBORs are not reflecting the true cost of money. I am going to set 2 and 3 months, 5.13 and 5.12 probably at the top of the range of rates set by libor contributors, although brokers tell me that* [Panel Bank 7] *is going to set at 5.15 for both (up 8.5 and 10 from yesterday). The true cost of money is anything from 5-15 basis points higher. Not really sure why contributors are keeping them so low but it is not a good idea at the moment to be seen to be too far away from the pack, although reality seems to be setting in for a few libor contributors who are belatedly moving libors up in line with where money is really trading*". Manager D replied "*Fine on LIBOR settings - thanks for remaining pragmatic but at the upper end*".

118. On 29 November 2007, all the contributing banks' submissions for one month US dollar LIBOR increased by a range of 35 to 48 basis points. Barclays' submission increased from 4.86 on 28 November to 5.3 on 29 November (an increase of 44 basis points). The offer that Barclays saw in the market was 30 basis points higher, at 5.60. Barclays' Submitter had intended to submit a rate of 5.50 on that day. However he was overruled on a conference call during which the submissions were discussed, as a rate of 5.50 was expected to draw negative media attention (as this would have been 20 basis points above the next highest submission). Manager E said on the call that "*it's going to cause a shit storm*". Barclays therefore submitted

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Source: FSA ¶ 118

Defendants Share LIBORs to Stay in Pack

least, that would not be too far above the expected rates of other members of the Contributor Panel. Consequently, on some occasions, Barclays submitted rates that were false because they were lower than Barclays otherwise would have submitted and contrary to the definition of LIBOR.

37. According to internal Barclays communications, for certain time periods, Barclays management instructed the Barclays Dollar LIBOR submitters not to be an "outlier" compared to other Contributor Panel banks, even if Barclays contributed the highest rate; Barclays could be "at the top of the pack" but not too far above the next highest contributor. In adopting that approach, certain managers believed that Barclays's submitted rates typically would be in the

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which Barclays was borrowing or could have borrowed funds, and lower than the rate at which Barclays should have been submitting its LIBOR contributions, and thus that submitter believed

Source: DOJ SOF ¶ 37

Barclays Knew Every Bank's Confidential Submissions

1 Month USD LIBOR Submissions

Date	BTMU	Barc	BAC	Citi	CS	DBK	HBOS	HSBA	JPM	LIOY	Norin	Rabo	RBC	RBS	UBS	WestLB
11/28/2007	4.82	4.86	4.9	4.83	4.9	4.78	4.82	4.8	4.82	4.82	4.85	4.81	4.815	4.83	4.8	4.82
11/29/2007	5.25	5.3	5.25	5.18	5.25	5.18	5.3	5.2	5.25	5.25	5.23	5.2	5.2	5.18	5.16	5.22

Source: BBA LIBOR USD 1 Month, Bloomberg (electronic database)

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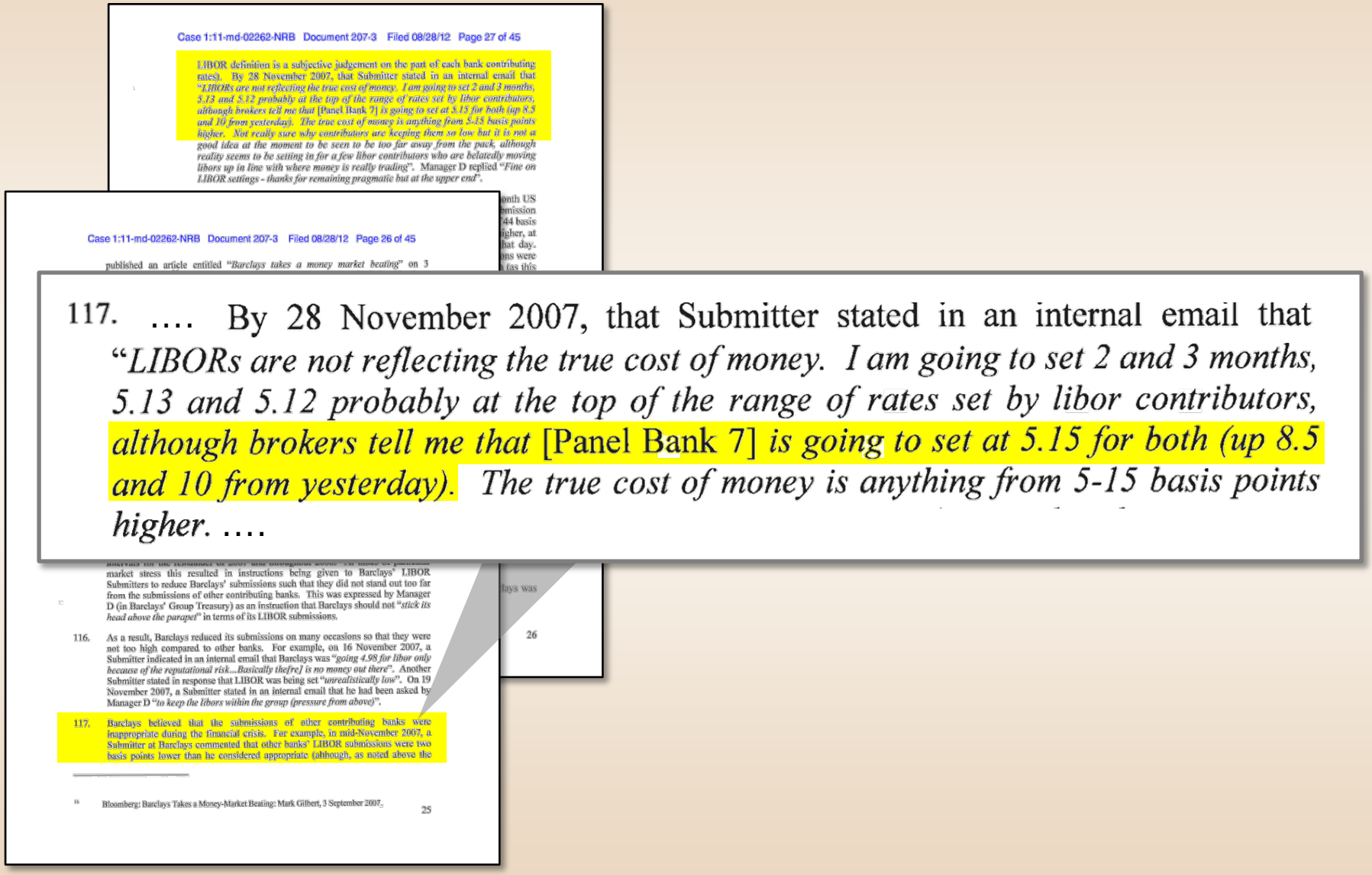

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published an article entitled "*Barclays takes a money market beating*" on 3

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market stress this resulted in instructions being given to Barclays' LIBOR Submitters to reduce Barclays' submissions such that they did not stand out too far from the submissions of other contributing banks. This was expressed by Manager D (in Barclays' Group Treasury) as an instruction that Barclays should not "*stick its head above the parapet*" in terms of its LIBOR submissions.

116. As a result, Barclays reduced its submissions on many occasions so that they were not too high compared to other banks. For example, on 16 November 2007, a Submitter indicated in an internal email that Barclays was "*going 4.98 for libor only because of the reputational risk...Basically the[re] is no money out there*". Another Submitter stated in response that LIBOR was being set "*unrealistically low*". On 19 November 2007, a Submitter stated in an internal email that he had been asked by Manager D "*to keep the libors within the group (pressure from above)*".

117. Barclays believed that the submissions of other contributing banks were inappropriate during the financial crisis. For example, in mid-November 2007, a Submitter at Barclays commented that other banks' LIBOR submissions were two basis points lower than he considered appropriate (although, as noted above the

[18] Bloomberg: Barclays Takes a Money-Market Beating: Mark Gilbert, 3 September 2007.

25

Source: FSA ¶ 117