

## The complaint

Mr G complains that XTB Limited unfairly withheld withdrawal payments from this investment account with them.

## What happened

On 24 and 25 June 2025, Mr G placed requests through XTB's platform to withdraw £575 and £262 respectively from his investment account with them. On 25 June 2025, Mr G received both payments. Due to an internal error, XTB duplicated the payments which meant that Mr G had withdrawn a total of £1,674 instead of £837.

XTB emailed Mr G twice on 25 June 2025 to explain what had happened. However, Mr G states that he did not see those messages. Mr G didn't become aware of the issue until receiving an email from XTB on 2 July 2025.

To try and resolve matters, XTB gave Mr G two options:

1. The duplicate payments could be offset against the other pending withdrawals Mr G had requested.
2. Mr G could return the overpayments.

Until Mr G made a decision, XTB wouldn't release his pending withdrawals. However, Mr G felt this was unfair and as a result, a number of emails between both Mr G and XTB were exchanged between 2 and 4 July 2025.

As they were unrelated to the duplicate payments, Mr G didn't think that XTB had the right to withhold his pending withdrawals. In addition, Mr G argued that XTB were required by the Financial Conduct Authority ("FCA") to ensure the duplicate payments were kept separate from his other withdrawal requests. As such, Mr G asked XTB to release his pending withdrawals even though duplicate payments had been made.

XTB explained to Mr G the terms and conditions of his account allowed them to suspend the pending withdrawals in the circumstances and they confirmed that they were acting within the rules of the FCA's Client Assets Sourcebook ("CASS").

To resolve the duplicate payments, XTB confirmed to Mr G that they'd emailed him twice on 25 June 2025 and had then made 13 subsequent attempts to contact him by telephone, all without a response. Mr G argued XTB hadn't done enough to ensure he was made aware of the duplicate payments and felt that XTB should've either left voicemails or texted him.

In an email to Mr G on 3 July 2025, XTB said:

*"Please be advised that knowingly retaining funds paid in error constitutes a criminal offence under the UK Theft Act 1968, specifically:*

- *Section 24A – Retaining wrongful credit, and*

- *Section 1 – Theft, where a person “dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it”.*

In a further email to Mr G, XTB also said:

- *“Should you choose to pursue this matter via the courts or refer it to the FCA or the Financial Ombudsman Service, that is of course your right. However, we are confident in our legal position and reserve the right to seek recovery of any legal costs incurred should the matter proceed”.*

As Mr G hadn't returned the overpayments or authorised XTB to offset the amount, they confirmed to him on 4 July 2025 that the duplicate payments had been offset against his pending withdrawals and therefore, a payment of the remaining £692 would be processed to him that day.

Mr G was unhappy with XTB's handling of the overpayments, so he raised a complaint with them and a formal response was issued on 7 July 2025.

XTB said, in summary, that while the regulator's CASS rules required them to release client money promptly when due, they argued it didn't override their entitlement to withhold or offset funds in circumstances in which a client owes money. XTB explained this was covered under the FCA's CASS 7.11.25 rule which meant they were entitled to withhold Mr G's funds until they received the duplicate payments back from him.

In addition, XTB said the terms and conditions of Mr G's account enabled them to withhold or offset funds against amounts owed to XTB, including those arising from mistaken or duplicate payments. Mr G was dissatisfied with the outcome of his complaint so referred his concerns to our service. To put matters right, Mr G wanted XTB to cover the overdraft fees and bank charges he incurred due to the delays in receiving payment of his pending withdrawals.

The complaint was then considered by one of our Investigators. He concluded that XTB hadn't treated Mr G fairly. He also said, in summary:

- Under CASS 13.6, there is a requirement for businesses to ensure *client money* is paid without delay and within one business day once funds are available for distribution.
- However, CASS 13.7 states that *“Money is not client money when it is or becomes properly due and payable to the firm for its own account”*. There are circumstances in which a firm can withhold payment from a client due to money being owed.
- Under the relevant terms and conditions, XTB were able to immediately offset the amount owed but they decided to allow Mr G the opportunity to decide whether he'd instead prefer to return the overpayments. Until Mr G confirmed whether he intended to return the overpayments, it wasn't unfair of XTB to withhold the pending withdrawals.
- XTB demonstrated that they'd emailed Mr G twice on 25 June 2025 to make him aware of the duplicate payments and had then made 13 unsuccessful calls to him over the period of 25 June 2025 to 1 July 2025. As such, our Investigator felt that they'd made reasonable efforts to contact Mr G but received no response, which was outside of their control.
- Although XTB weren't wrong to withhold Mr G's duplicate payments and then offset the amount owed, our Investigator recognised that it was incredibly frustrating for Mr G. Duplicate payments had been made due to XTB's mistakes, so Mr G was

understandably annoyed when he learnt they'd withheld his pending withdrawals whilst the error was resolved.

- Mr G was caused further inconvenience by having to spend time and energy in communicating with XTB between 2 and 4 July 2025 to resolve matters.
- It wasn't unreasonable for Mr G to feel the mention of the recovery of legal fees to be a threat and intimidating behaviour as XTB were insinuating that if he decided to take matters further, he'd have to pay their legal fees due to having no valid case to bring to the courts.
- There was no need to have mentioned the recovery of legal fees. As an FCA regulated business, XTB were only required to provide Mr G with information regarding his right to refer his complaint to our Service and so there wasn't a need to discuss legal fees.
- In light of the level of service provided to Mr G, our Investigator felt that an offer of £300 would fairly recognise the mistakes made by XTB having caused a consumer a significant level of distress, hurt and upset over a short-term period which was easily avoidable.

XTB, however, disagreed with our Investigator's findings. In summary, they said that they felt an award of £300 was excessive and a more appropriate level should be between £100 and £200. Our Investigator was not persuaded to change his view as he didn't believe XTB had presented any new arguments he'd not already considered or responded to.

Unhappy with that outcome, XTB then asked the Investigator to pass the case to an Ombudsman for a decision.

### **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I have summarised this complaint in less detail than Mr G has done and I've done so using my own words. The purpose of my decision isn't to address every single point raised by all of the parties involved. If there's something I've not mentioned, it isn't because I've ignored it – I haven't. I'm satisfied that I don't need to comment on every individual argument to be able to reach what I think is the right outcome. No discourtesy is intended by this; our rules allow me to do this and it simply reflects the informal nature of our service as a free alternative to the courts.

My role is to consider the evidence presented by Mr G and XTB in order to reach what I think is an independent, fair and reasonable decision based on the facts of the case. In deciding what's fair and reasonable, I must consider the relevant law, regulation and best industry practice. Where there's conflicting information about what happened and gaps in what we know, my role is to weigh up the evidence we do have, but it is for me to decide, based on the available information that I've been given, what's more likely than not to have happened. And, having done so, I'm upholding Mr G's complaint – whilst it's largely for the same reasons as our Investigator, I'll explain why below.

Having carefully reviewed the file, it seems to me that neither party have disputed the chain of events that took place. In short, Mr G requested two withdrawals and XTB duplicated those payments to him. I think it's important to recognise that XTB made repeated efforts to

resolve the matter, but they weren't able to in light of the fact that Mr G failed to answer their calls or emails.

I think it was fair and reasonable for XTB to withhold the subsequent withdrawals in the short term. Until Mr G confirmed whether he wished to return the overpayments or have them offset, XTB faced a genuine risk of releasing further funds to him which because of the duplicate payments, he was not entitled to retain. In these circumstances, and in line with CASS 7.11, I'm satisfied they acted within the regulatory framework in temporarily suspending the withdrawals while the overpayment position was clarified. And, in light of Mr G's failure to respond to their requests, I also think that XTB took the right action to break the stalemate and offset the payments in July 2025.

However, I can't overlook that XTB did cause some degree of inconvenience here. They incorrectly duplicated Mr G's withdrawal request and when he eventually contacted them to put things right, there was some back and forth before the issue finally got resolved. In addition, having considered the correspondence that XTB sent to Mr G about the matter, I'm of the opinion that their comments regarding legal action and costs were unnecessary in the circumstances. It was within XTB's gift to resolve the issue without escalating the problem further, which in the end, is what they did anyway. And, as a regulated firm, XTB should know full well that a consumer is well within their rights to refer their concerns to this service if they believe their complaint has not been resolved to their satisfaction.

It's important to note that a firm cannot generally recover their legal costs from a customer simply because they referred their complaint to this service. The Financial Ombudsman Service is a free and informal dispute resolution scheme and the statutory framework makes clear that firms must bear their own costs. So, any suggestion that Mr G may be liable for XTB's costs from him referring his case to this service is inappropriate and risks deterring consumers from exercising their right to refer a complaint.

Having carefully considered the chain of events that occurred along with the associated actions of both parties, the duplicate payment was XTB's own error, the process of resolving it was prolonged and there were elements of XTB's communications that fell below the standard I would expect. I'm satisfied that Mr G has been inconvenienced and as such XTB should recompense him for the trouble and upset that they've caused. I'm of the opinion that XTB should pay Mr G £300 which I'm satisfied is fair and reasonable in all of the circumstances.

I'm not going to instruct XTB to pay any of the costs that Mr G states he incurred by using his overdraft whilst he was waiting for the delayed withdrawals. I say that because as I've already explained, I'm satisfied that XTB made sufficient attempts to contact Mr G to resolve the matter.

### **My final decision**

I'm upholding Mr G's complaint and require XTB Limited to put things right for him in the manner that I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 27 March 2026.

Simon Fox  
**Ombudsman**