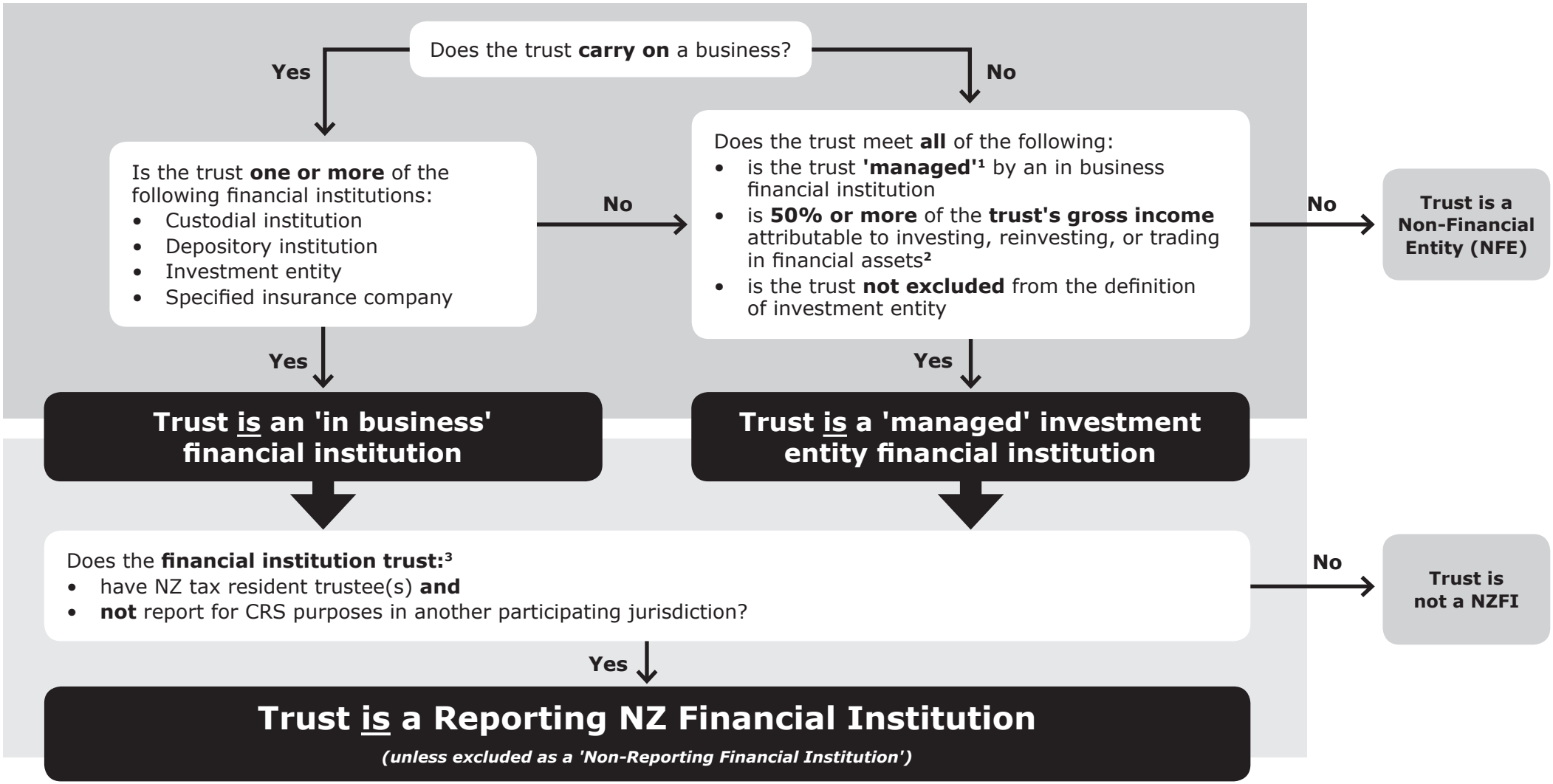
CRS: Is the Trust a Reporting NZ Financial Institution?



[1] For example, a trust may be managed by a corporate trustee (or other entity – such as a provider of discretionary investment management services) that is a financial institution. Our guidance "*The Application of the Common Reporting Standard to corporate trustees within a professional group*" sets out an example of when a corporate trustee will be a financial institution that **manages** a trust that is a managed investment entity financial institution. See also Item 1 in Part 2 of Schedule 2 of the Tax Administration Act 1994.

[2] The specified period this applies for ie, for the shorter of the:
- three year period ending on 31 March of the period preceding the period in which the determination is made, or
- period during which the entity has been in existence.

[3] CRS "financial institution trust" residency rules apply to those financial institution trusts that are **not** unit trusts. Financial institution unit trusts will be NZ financial institutions if they are tax resident in New Zealand (excluding offshore branches) under the **company** tax residency rules set out in the Income Tax Acts.

Term	General definition	IR Guidance
Financial assets	Generally covers all types of assets that can be held in an account (eg includes shares, units, bonds, swaps and money) other than physical commodities or non-debt direct interests in real property.	3.1.3
Managed by a Financial Institution	The entity (including a trust) allows another Financial Institution (that performs specified investment activities) to have discretionary authority to manage its assets (whether in whole or in part).	3.1.3
Trustee documented trust	A NZFI trust will be a Non-Reporting NZFI trustee documented trust if it uses a trustee that is a reporting financial institution to duly carry out its CRS obligations. The financial institution trustee will report to Inland Revenue on the trust's behalf if the trust has any account to report. Although the financial institution trustee will report any accounts to Inland Revenue on trust's behalf, the trust itself will still be required to be registered with Inland Revenue, for CRS purposes.	3.5
NFE (non-financial entity)	An entity that is not a Financial Institution. NFEs are either 'passive' or 'active'. A passive NFE that holds an account with a Reporting financial institution may be asked by that institution to disclose information about its controlling persons (including whether such persons are relevant foreign tax residents).	1.9, 5.5.2 - 5.5.3, 5.6.2 - 5.6.3, Appendix 4
Active NFE	Special rules apply, but generally is an NFE with less than 50% of passive annual gross income **and** less than 50% of assets that produce (or could produce) passive income.	1.9, 5.5.2 - 5.5.3, 5.6.2 - 5.6.3, Appendix 4
Passive NFE	For CRS purposes is any: • NFE that is not an Active NFE; or • Managed investment entity from a jurisdiction that is not a Participating Jurisdiction. A Participating Jurisdiction is an overseas jurisdiction that has an agreement with New Zealand under which that jurisdiction will provide Inland Revenue with CRS information.	1.9, 5.5.2 - 5.5.3, 5.6.2 - 5.6.3, Appendix 4
Non-Reporting Financial Institutions (NRFIs)	These are specifically excluded from the CRS. They include governmental entities, international organisations and central banks (and related pension funds); certain retirement funds; qualified credit card issuers; exempt collective investment vehicles; trustee-documented trusts; and low risk entities determined by the Commissioner of Inland Revenue as being NRFIs.	3.4 - 3.6

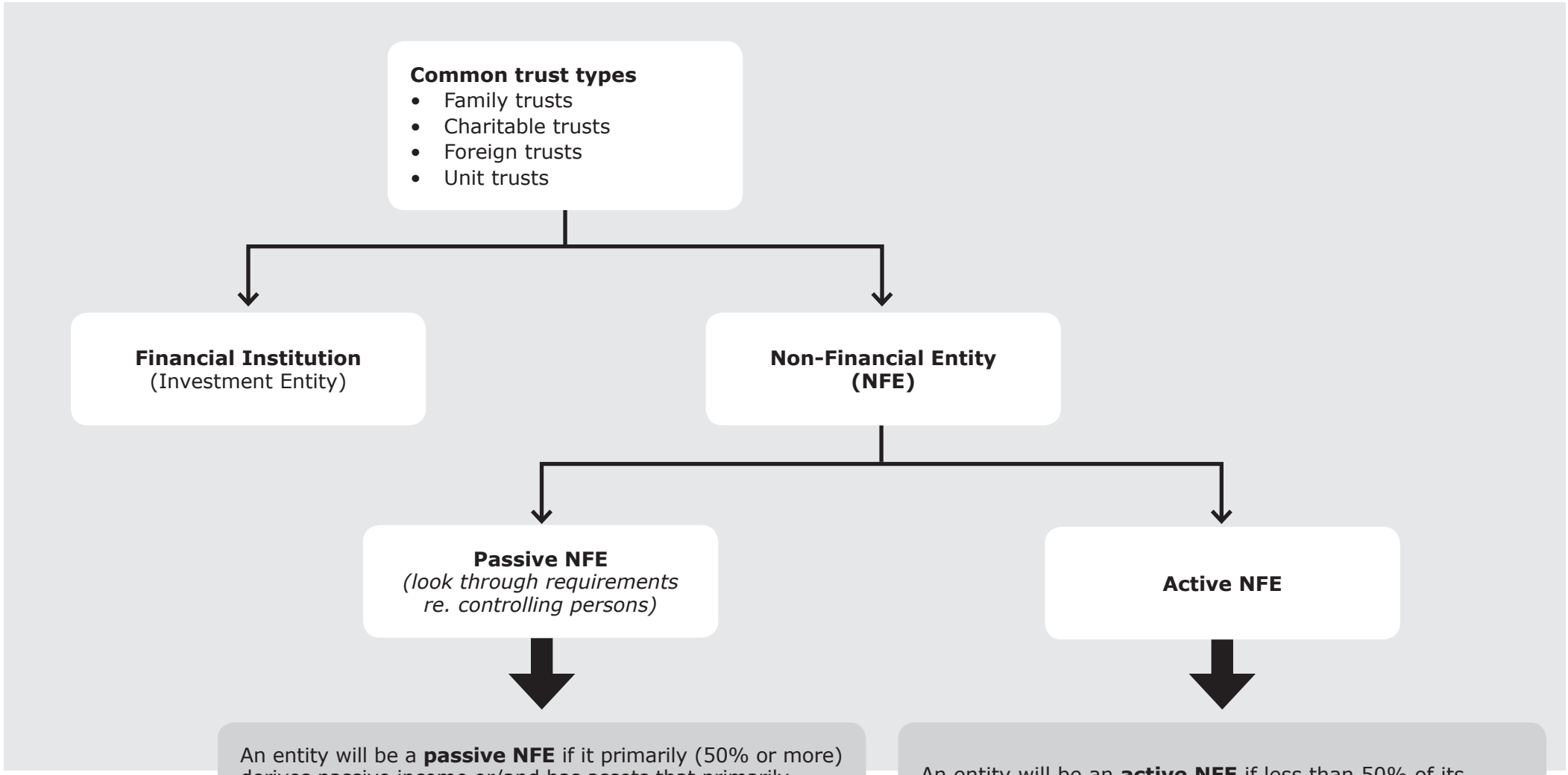
Additional information

- *Refer Chapter 6: Treatment of trusts in the CRS, in the OECD's CRS Implementation Handbook*
- *Refer Section 11: Application of CRS to particular types of entities and structures, Inland Revenue CRS Guidance*

Disclaimer

This information is a high level summary, with some exceptions, to help you understand your obligations under the CRS in New Zealand. It does not constitute a ruling or binding legal advice.

CRS: Classification of Trusts



For further detail see sections 1.9, 5.5.2 - 5.5.3, 5.6.2 - 5.6.3 and Appendix 4 of the Inland Revenue CRS guidance for more information to determine if the Non-Financial Entity (NFE) is 'Passive' or 'Active'.