§ 207.7 Derivatives of refugees.

(a) Eligibility. A spouse, as defined in section 101(a)(35) of the Act, and/or child(ren), as defined in section 101(b)(1)(A), (B), (C), (D), or (E) of the Act, shall be granted refugee status if accompanying or following-to-join the principal alien. An accompanying derivative is a spouse or child of a refugee who is in the physical company of the principal refugee when he or she is admitted to the United States, or a spouse or child of a refugee who is admitted within 4 months following the principal refugee’s admission. A following-to-join derivative, on the other hand, is a spouse or child of a refugee who seeks admission more than 4 months after the principal refugee’s admission to the United States.

(b) Ineligibility. The following relatives of refugees are ineligible for accompanying or following-to-join benefits:

1. A spouse or child who has previously been granted asylee or refugee status;

2. An adopted child, if the adoption took place after the child became 16 years old, or if the child has not been in the legal custody and living with the parent(s) for at least 2 years;

3. A stepchild, if the marriage that created this relationship took place after the child became 18 years old;

4. A husband or wife if each/both were not physically present at the marriage ceremony, and the marriage was not consummated (section 101(a)(35) of the Act);

5. A husband or wife if the Secretary has determined that such alien has attempted or conspired to enter into a marriage for the purpose of evading immigration laws; and

6. A parent, sister, brother, grandparent, grandchild, nephew, niece, uncle, aunt, cousin or in-law.

(c) Relationship. The relationship of a spouse and child as defined in sections 101(a)(35) and 101(b)(1)(A), (B), (C), (D), or (E), respectively, of the Act, must have existed prior to the refugee’s admission to the United States and must continue to exist at the time of filing for accompanying or following-to-join benefits and at the time of the spouse or child’s subsequent admission to the United States.