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Enforcement of the Strict Liability Principle of Digital Platforms for Work Accidents Suffered by Gig Workers from the Perspective of Civil Law

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ABSTRACT

The rapid growth of Indonesia's gig economy has exposed online transportation and delivery workers to a high risk of work accidents without adequate legal protection, because their relationship with platforms is constructed as a partnership rather than employment. Consequently, platform liability must be proven on the basis of fault under Article 1365 of the Indonesian Civil Code, which disadvantages workers who lack access to the information and algorithmic data controlled by the platform. This study aims to analyze the feasibility of applying the principle of strict liability to digital platforms for gig workers' work accidents from the perspective of Indonesian civil law. It uses a normative juridical method with statutory, conceptual, and comparative approaches. The results show that 50.3% of 1,018 online motorcycle-taxi drivers surveyed by IDEAS in 2025 had experienced a work accident, up from 31.6% in 2023, while BPJS Ketenagakerjaan recorded national work-accident cases rising from 101,367 (2016) to 462,241 (2024). The fault-based model under Article 1365 is inadequate because it places the burden of proving four elements on the structurally weaker party. International practice, including Uber BV v Aslam [2021] UKSC 5, European Union Directive 2024/2831, Singapore's Platform Workers Act 2024, Malaysia's Gig Workers Act 2025, and the Philippine Supreme Court's decision in Ditiangkin v. Lazada, is moving toward platform responsibility based on control and no-fault accident protection. This study recommends a modified strict liability principle for work-accident risks inherent in algorithmic work systems, in line with Presidential Regulation Number 27 of 2026

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INTRODUCTION

The digital revolution has given rise to new platform-based business models (the platform economy) that connect service providers and users directly through applications, including in the transportation and goods-delivery sectors. In Indonesia, the Ministry of Transportation estimates the number of online motorcycle-taxi drivers at seven million people nationwide, making this sector one of the largest absorbers of informal labor amid the stagnation of labor-intensive industries (Wibisono & Anwar, 2026). This business model was initially claimed to offer flexibility and autonomy for workers; in practice, however, digital platforms exercise near-total control over the gig worker's work system, ranging from setting fares and assignment algorithms to rating systems and unilateral account suspension or termination of partnership (Christiyono, Tohari, & Suryandari, 2024).

This imbalance of power becomes problematic when a gig worker suffers a work accident while carrying out an order from the platform. Because the legal relationship between the platform and the worker is constructed as a civil-law partnership rather than an employment relationship under labor law, gig workers do not automatically receive the Work Accident Insurance (JKK) protection required for formal workers (Arifin, 2022; Hidayat & Prasetyo, 2023). This situation is further compounded by the nature of gig work — particularly for online motorcycle-taxi drivers and couriers, who spend most of their working time on the road with long working hours — classifying it as high-risk work in terms of accidents (Nugroho & Putri, 2022).

When a work accident occurs, a gig worker seeking to hold the platform liable must submit to the fault-based liability regime under Article 1365 of the Civil Code, which requires proof of four cumulative elements: an unlawful act, fault or negligence, loss, and a causal relationship between the act and the loss. Placing this burden of proof on the worker creates structural injustice, because gig workers have no access to algorithmic data, operational standards, or risk-control mechanisms, all of which are entirely within the platform's control (Putra & Mahendra, 2021). This condition underscores the need to examine the feasibility of applying the principle of strict liability — a liability regime that does not require proof of fault — as a fairer alternative for gig workers.

A number of prior studies have examined the legal status and protection of gig workers from various perspectives. Arifin (2022) identified legal uncertainty over the status of platform workers under Indonesian labor law as the root cause of weak gig-worker protection, while Nugroho and Putri (2022) analyzed the legal status of online motorcycle-taxi drivers from a labor-law perspective and found that the elements of an employment relationship under Article 1 point 15 of the Manpower Law are in fact met in the practice of the platform-driver partnership. Putra and Mahendra (2021), as well as Hidayat and Prasetyo (2023), asserted that the regulatory gap leaves gig workers in a vulnerable legal position without adequate access to social security, including Work Accident Insurance.

On the aspect of civil liability, Rahmadani (2020) examined the urgency of applying strict liability in digital consumer protection and found that the principle is relevant to service provision

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involving safety, while Siregar (2021) developed an objective-liability model for fintech services that can be analogized to the context of online transportation platforms. Habibah and Erliana (2025) specifically examined civil-law protection for digital-platform workers and concluded that the ambiguity of workers' legal status is the main weakness of the civil protection currently available. On the international comparative front, Cherry and Poster (2021) examined the dependent-contractor status of gig workers across various jurisdictions, while Deakin and Markou (2022) questioned the adequacy of contract-based regulation for governing platform work that is, in fact, subordinate in nature.

International jurisprudential developments have also provided important precedents. The UK Supreme Court's ruling in Uber BV v Aslam [2021] UKSC 5 held that Uber drivers are "workers" entitled to employment protection based on the degree of control (control test) Uber exercises over fares, routes, and the relationship with passengers, rather than on the contractual "partnership" label (Adams-Prassl, 2022). That ruling was subsequently reinforced by the decision in Deliveroo — IWGB v CAC [2023] UKSC 43, albeit with a different outcome due to a substitution clause in the contract (Countouris, 2024). At the regional level, the European Union adopted Directive 2024/2831 on Improving Working Conditions in Platform Work, which requires member states to apply a presumption of employment when a platform exercises a certain degree of algorithmic control. Within ASEAN, courts in the Philippines and Malaysia have reached different conclusions on the status of platform workers, while Singapore and Malaysia have enacted dedicated legislation on platform-worker accident protection (see Section 3.5).

Although these studies have examined the legal status of gig workers and the principle of strict liability separately, research specifically analyzing the feasibility of applying strict liability to digital platforms for gig workers' work accidents from the perspective of Indonesian civil law — supported by current empirical data on the scale of work-accident risk faced by gig workers — remains limited. This study aims to fill that gap by: (1) analyzing empirical data on gig workers' work-accident risk in Indonesia; (2) examining the adequacy of the fault-based liability regime under Article 1365 of the Civil Code in the context of gig workers' work accidents; (3) comparing the digital-platform liability regime in Indonesia with international practice; and (4) formulating a strict-liability model suitable for application to digital platforms in Indonesia.

METHODS

This study uses the normative (doctrinal) legal research method — research that examines law as written norms (law in books) as well as its gap with the need for legal protection in practice (law in action). Three approaches are used: the statute approach, to examine the Civil Code, labor regulations, and online-transportation-sector regulations; the conceptual approach, to analyze the concepts of fault-based liability and strict liability; and the comparative approach, to compare the digital-platform liability regime in Indonesia with that of the United Kingdom, the European Union, and selected ASEAN jurisdictions (Singapore, Malaysia, and the Philippines).

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1. Legal Materials

Primary legal materials include the Indonesian Civil Code, particularly Articles 1365–1367 on unlawful acts; Law Number 13 of 2003 on Manpower; Law Number 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation into Law; Presidential Regulation Number 27 of 2026 on the Protection of Online Transportation Workers; Minister of Manpower Regulation Number 5 of 2021 on Procedures for Administering the Work Accident Insurance, Death Insurance, and Old-Age Insurance Programs for Non-Wage-Earning Workers; the ruling in Uber BV v Aslam [2021] UKSC 5; European Union Directive 2024/2831 on Improving Working Conditions in Platform Work; Singapore's Platform Workers Act 2024; Malaysia's Gig Workers Act 2025 (Act 872); the decision of the Court of Appeal of Malaysia of 27 November 2023 in the Grab driver case brought by Loh Guet Ching; and the decision of the Supreme Court of the Philippines in Ditiangkin v. Lazada E-Services Philippines (2023). Secondary legal materials consist of national and international scholarly journal articles published between 2020 and 2026, books, and research reports from civil-society organizations and official bodies such as BPJS Ketenagakerjaan and the Institute for Development of Economics and Finance (IDEAS).

2. Data Collection and Analysis Techniques

Data were collected through library research by reviewing legislation, court rulings, indexed scholarly journals, and official survey and statistical reports. Quantitative data on gig workers' work-accident risk were drawn from the 2025 IDEAS national survey report and the 2023 local survey, together with BPJS Ketenagakerjaan Work Accident Insurance claims data for the 2016–2024 period. The analysis was conducted using a descriptive-analytical qualitative method through the following stages: (1) inventorying the legal norms governing civil liability and work-accident protection for gig workers; (2) systematizing empirical data on the scale and trend of work-accident risk; (3) analyzing the adequacy of the fault-based liability regime relative to gig workers' protection needs; (4) conducting a comparative legal analysis with the UK, EU, and ASEAN jurisdictions; and (5) formulating a strict-liability model suitable for application within the framework of Indonesian civil law.

3. Object of Study

The object of this study focuses on three dimensions. First, the characteristics of the legal relationship between digital platforms and gig workers in Indonesia's online transportation and delivery sector. Second, empirical data on the scale, trend, and characteristics of the work-accident risk faced by gig workers, particularly online motorcycle-taxi drivers. Third, the normative civil-liability framework in force in Indonesia, compared with the practice of other jurisdictions that have developed more worker-protective models of platform liability

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RESULTS

1. Characteristics of the Legal Relationship between Digital Platforms and Gig Workers

The legal relationship between digital platforms and gig workers in Indonesia is formally constructed as a profit-sharing partnership rather than an employment relationship under the Manpower Law. In practice, as found by Christiyono, Tohari, and Suryandari (2024), digital platforms exercise near-total control over the gig worker's work system through four main mechanisms: (1) algorithmic control over order assignment and route determination; (2) unilateral setting of service fares and commission deductions; (3) rating systems and partnership tiers that determine access to orders; and (4) sanction systems ranging from temporary suspension to unilateral termination of the partnership. According to Nugroho and Putri (2022), these patterns essentially satisfy the elements of an employment relationship under Article 1 point 15 in conjunction with Article 50 of the Manpower Law — namely the presence of work, wages, and command (perintah). Nevertheless, because there is no formal recognition of these elements, gig workers do not automatically gain access to Work Accident Insurance in the way formal workers do (Arifin, 2022; Hidayat & Prasetyo, 2023).

2. Empirical Data on Gig Workers' Work-Accident Risk

A national survey conducted by the Institute for Development of Economics and Finance (IDEAS) in December 2025, covering 1,018 online motorcycle-taxi drivers across 62 regencies/cities throughout Indonesia, shows a significant increase in work-accident risk compared with a local survey conducted in April–May 2023 of 225 drivers in the Jabodetabek area (Wibisono & Anwar, 2026). As presented in Table 1 and Figure 1, the proportion of respondents who had experienced a work accident rose from 31.6% (2023) to 50.3% (2025), while the proportion suffering severe injury and severe vehicle damage rose from 2.7% to 5.6%. This increase in risk is consistent with the finding that online motorcycle-taxi drivers' working hours have grown longer, with 51.0% of respondents in the 2025 survey working 9–12 hours per day and 55.5% working seven days without a day off, compared with only 37.8% and 42.2%, respectively, in the 2023 survey.

Table 1. Comparison of Work-Accident Risk and Health Insurance among Online Motorcycle-Taxi Drivers, IDEAS Surveys 2023 and 2025

Indicator	2023 Local Survey (n=225)	2025 National Survey (n=1,018)
Had previously experienced a work accident	31.6%	50.3%
Suffered severe injury / severe vehicle damage	2.7%	5.6%
Worked 9–12 hours per day	37.8%	51.0%
Worked 7 days without a day off	42.2%	55.5%
Had no health insurance (BPJS Kesehatan)	35.1%	26.4%
Had platform-facilitated BPJS Kesehatan	12.9%	8.6%

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Aggregate national data from BPJS Ketenagakerjaan also show a rising trend in work-accident cases overall, as presented in Table 2 and Figure 2. The number of claimed work-accident cases rose from 101,367 cases in 2016 to 234,370 cases in 2021, then jumped to 370,747 cases in 2023 and 462,241 cases in 2024. The work-accident ratio per 10,000 workers more than doubled over the period, from around 45 claims per 10,000 workers in 2016 to 102 claims per 10,000 workers in 2024. For the Non-Wage-Earning Worker (BPU) category specifically, which includes online motorcycle-taxi drivers, 19,921 work-accident cases were recorded up to 2023 — a category that structurally has a far lower rate of social-security enrollment than the Wage-Earning Worker category.

Table 2. National Work-Accident Case Trend (BPJS Ketenagakerjaan Claims), 2016–2024

Year	Number of Work-Accident Cases	Ratio per 10,000 Workers (Estimate)
2016	101,367	~45
2021	234,370	~70
2023	370,747	~85
2024	462,241	~102

3. Adequacy of the Fault-Based Liability Regime in the Context of Gig Workers' Work Accidents

Article 1365 of the Civil Code provides that every unlawful act that causes loss to another person obliges the person at fault to compensate for that loss. This provision requires proof of four cumulative elements: an unlawful act, an element of fault (intent or negligence), a loss, and a causal relationship between the act and the loss. In the context of gig workers' work accidents, applying these four elements faces structural obstacles, as summarized in Table 3.

Table 3. Obstacles to Applying the Elements of Article 1365 of the Civil Code in the Context of Gig Workers' Work Accidents

Element of Article 1365 of the Civil Code	Obstacle to Proof by the Gig Worker
Unlawful act	The platform shelters behind a standard "partnership" clause that formally exempts it from liability for the partner's work-related risks
Fault/negligence	The worker has no access to the platform's assignment-algorithm data, performance targets, or occupational-safety standards
Loss	The loss can be relatively demonstrated through medical documents, but immaterial loss and lost income are difficult to quantify without platform data
Causal relationship	It is difficult to prove that performance targets, order pressure, or the platform's algorithm design were the direct cause of the fatigue that led to the accident

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These obstacles show that the fault-based liability model places gig workers in a structurally weak position, because proving the four elements requires access to data and systems entirely under the platform's control. This is consistent with Rahmadani's (2020) argument that the principle of strict liability is relevant for service provision involving safety when one party lacks access to information or control over the operational system.

4. Comparison of Liability Regimes: Indonesia, the United Kingdom, and the European Union

Comparison with other jurisdictions shows a direction of legal development that differs from Indonesia's current approach. The ruling in Uber BV v Aslam [2021] UKSC 5 established Uber drivers as "workers" based on the control test — the degree of control Uber exercises over fares, routes, and the relationship with passengers — rather than on the contractual "partnership" label created by the platform (Adams-Prassl, 2022). Through Directive 2024/2831, the European Union requires member states to apply a presumption of employment when a platform exercises certain control indicators, thereby shifting the burden of proof to the platform to prove that the worker is genuinely independent.

Table 4. Comparison of Digital-Platform Liability Regimes: Indonesia, United Kingdom, and European Union

Aspect	Indonesia (current)	United Kingdom (Uber v Aslam)	European Union (Directive 2024/2831)
Basis of legal relationship	Civil-law partnership	"Worker" based on the control test	Presumption of employment
Burden of proof	On the worker (Art. 1365 Civil Code)	On the platform (after indication of control)	On the platform (presumption of employment)
Basis for determining status	Contractual "partnership" label	Actual degree of control over the work	Algorithmic control indicators
Work-accident insurance	Optional/self-arranged (BPU)	Attached to "worker" status	Mandatory if employment status is recognized

5. Jurisprudence and Regulation in ASEAN Jurisdictions: Singapore, Malaysia, and the Philippines

Regional experience in ASEAN shows that courts and legislatures have taken divergent paths. In the Philippines, the Supreme Court in Ditiangkin v. Lazada E-Services Philippines (2023) held that delivery riders of the e-commerce platform were employees and ordered their reinstatement, applying the four-fold test of hiring, payment of wages, power of dismissal, and control over the means and methods of work (Quising, 2025). As in Uber BV v Aslam, the Court looked at the substance of control rather than at the contractual label.

By contrast, the Court of Appeal of Malaysia on 27 November 2023 held that a Grab e-hailing driver was an independent contractor and not a "workman" under the Industrial Relations Act

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1967, reasoning that Grab acted as an intermediary in a commercial arrangement (Anbalagan, 2023). That outcome mirrors the "partnership" construction found in Indonesia. Malaysia then responded through legislation: the Gig Workers Act 2025 (Act 872), in force since 31 March 2026, requires platform providers to register gig workers with the Social Security Organisation (SOCSO) and to deduct contributions of 1.25% through platform transactions (Malay Mail, 2026).

Singapore adopted the most direct accident-compensation model. The Platform Workers Act 2024, in force since 1 January 2025, obliges platform operators to provide work injury compensation insurance at the same level of coverage as employees under the Work Injury Compensation Act 2019 (Allen & Gledhill, 2024). That Act operates as a no-fault compensation system (Del Rosario, 2025), so a platform worker does not have to prove the operator's fault, and the Platform Workers Act is intended to supersede contractual provisions that are less favourable to the worker (Rajah & Tann Singapore, 2024).

Taken together, the ASEAN experience supports three observations for Indonesia. First, litigation over worker status produces inconsistent outcomes, as the contrast between the Philippines and Malaysia shows, so protection against work accidents should not depend entirely on reclassifying gig workers as employees. Second, the legislative models in Singapore and Malaysia attach accident protection to the platform's role regardless of the label in the contract. Third, Singapore's no-fault model is the closest regional counterpart to the modified strict liability model proposed in this study.

DISCUSSION

The data in Tables 1 and 2 show that the work-accident risk faced by gig workers, particularly online motorcycle-taxi drivers, is not merely incidental but a structural risk inherent in the design of the algorithmic work system itself. The rise in the proportion of drivers experiencing accidents from 31.6% to 50.3% over two years coincided with longer working hours and intensified performance pressure, indicating a causal relationship between the design of the assignment algorithm and the platform's performance targets, on the one hand, and increased accident risk, on the other. This finding reinforces the argument by Christiyono, Tohari, and Suryandari (2024) that a platform's algorithmic control over gig workers' working hours and performance targets is, in fact, equivalent to the control exercised by an employer in a conventional employment relationship, so that it is unreasonable for responsibility for the risks arising from that control to be borne entirely by the worker.

The analysis in Table 3 shows that the fault-based liability model under Article 1365 of the Civil Code, although a long-established general instrument in Indonesian civil law, was not designed for a structurally unequal relationship such as that between digital platforms and gig workers. Workers' difficulty in proving the four elements of Article 1365 — particularly the elements of fault and causal relationship — stems not merely from workers' weak legal position, but from the imbalance in access to data and systems entirely controlled by the platform. This is consistent with Siregar's (2021) view on the need for an objective-liability model for technology-

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based services when the platform provider holds exclusive control over the operational system that creates risk for others.

The comparison with the UK and EU jurisdictions in Table 4 shows that the direction of international legal development is in fact moving away from the fault-based liability model toward a model that reverses the burden of proof onto the platform. The ruling in Uber BV v Aslam affirms the principle that the substance of factual control, not the contractual label, determines the legal status of a platform worker (Adams-Prassl, 2022) — a principle relevant for adoption in the Indonesian context, given that the pattern of algorithmic control exercised by online motorcycle-taxi platforms in Indonesia is essentially similar to that found in the Uber case. Nevertheless, the Deliveroo — IWGB v CAC ruling shows that the outcome of the control test can differ depending on contractual details such as a substitution clause (Countouris, 2024), indicating that applying a similar model in Indonesia requires care in formulating relevant control indicators so that they cannot easily be circumvented by platforms through the engineering of contract clauses.

The ASEAN comparison in Section 3.5 reinforces this direction and adds a regional dimension. The divergent outcomes in Ditiangkin v. Lazada and in the Malaysian Court of Appeal's Grab decision show that a status-based approach leaves gig workers' protection dependent on how each court weighs the facts of control. The legislative responses in Singapore and Malaysia, which impose accident-protection duties on platforms without waiting for a ruling on employment status, are closer to the logic of strict liability: the platform, which designs the work system and profits from it, bears the cost of the accident risk that the system creates. For Indonesia, whose legal relationship between platforms and workers is likewise framed as a partnership, these experiences indicate that a liability rule tied to the platform's control and to mandatory insurance is workable, and that it can be developed in parallel with, rather than only after, the resolution of the status question.

Based on this analysis, this study argues that applying pure strict liability — imposing responsibility on the platform without any exception whatsoever — has the potential to be disproportionate and could hinder the sustainability of a platform business model that also provides economic value to millions of informal workers. As an alternative, this study recommends a modified strict liability model, as illustrated in Figure 3, which imposes liability on the platform for work accidents occurring during the performance of an order, with a limited exception only for force majeure or absolute fault entirely outside the platform system's control (contributory gross negligence). This model is consistent with the policy direction of Presidential Regulation Number 27 of 2026 on the Protection of Online Transportation Workers, which mandates work-accident insurance and limits on application-operator commission deductions, and is aligned with the planned Gig Economy Workers Law, which has been included in the 2026 Priority National Legislation Program.

Applying this modified strict liability model carries significant practical implications. First, it will encourage platforms to invest more heavily in occupational-safety systems, such as

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maximum working-hour limits and fatigue-warning systems, because accident risk becomes an internal cost the platform must bear (internalization of risk) rather than an externality imposed on the worker. Second, reversing the burden of proof will reduce the access-to-justice barriers that gig workers currently face in proving platform fault, given the imbalance in data access. Third, this model needs to be balanced with a mandatory insurance scheme whose premiums can be proportionally charged to the platform as part of its operating costs, so as not to create a disproportionate financial burden in the event of large-scale accidents.

This study has limitations. First, the empirical data used are drawn from non-probability surveys using purposive sampling, so their generalization to the gig-worker population as a whole should be treated with caution. Second, the comparative legal analysis is limited to the United Kingdom, the European Union, and three ASEAN jurisdictions (Singapore, Malaysia, and the Philippines), and the Malaysian and Philippine decisions are discussed partly through secondary reports, so further research drawing on the full texts of those judgments and on other ASEAN jurisdictions would enrich the comparative perspective. Third, because Presidential Regulation Number 27 of 2026 and the draft Gig Economy Workers Law are still very recent, their implementation and effectiveness in the field could not be evaluated in this study and require further research once these regulations have been in effect.

CONCLUSIONS

This study analyzed the feasibility of applying the principle of strict liability of digital platforms for gig workers' work accidents from the perspective of Indonesian civil law. In line with the four research objectives, four conclusions are drawn:

Empirical data show that gig workers' work-accident risk has increased significantly, from 31.6% (2023) to 50.3% (2025) of online motorcycle-taxi drivers who had experienced an accident, in line with the rising trend of national work-accident cases from 101,367 cases (2016) to 462,241 cases (2024) according to BPJS Ketenagakerjaan data. The fault-based liability model under Article 1365 of the Civil Code is inadequate for the context of gig workers' work accidents because it places the burden of proving four cumulative elements on a party that structurally lacks access to the data and systems controlled by the platform.

Comparison with UK jurisprudence in Uber BV v Aslam, EU Directive 2024/2831, and ASEAN practice shows a common direction: protection against work accidents is increasingly tied to the platform's factual control rather than to the contractual label. The United Kingdom and the European Union move toward a reversal of the burden of proof; the Philippine Supreme Court in Ditiangkin v. Lazada applied the control test; Malaysia's Gig Workers Act 2025 imposes mandatory social-security contributions on platforms despite the Court of Appeal's 2023 ruling that a Grab driver is an independent contractor; and Singapore's Platform Workers Act 2024 provides no-fault work injury compensation at the level of employees. This study recommends a modified strict liability model, which imposes liability on the platform for gig workers' work accidents with limited exceptions for force majeure and the worker's own absolute fault,

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accompanied by a mandatory insurance mechanism funded by the platform, in line with the policy direction of Presidential Regulation Number 27 of 2026 and the draft Gig Economy Workers Law. Further research is recommended to evaluate the effectiveness of these regulations once in effect and to extend the comparison to other ASEAN jurisdictions.

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