Divergent Paths in Cayman Islands Appraisal Decisions After *Trina Solar*

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Introduction

Section 238 of the Cayman Islands Companies Act provides dissenting shareholders with a statutory right to be paid the "fair value" of their shares following a merger.[1]

Over the past decade, the courts of the Cayman Islands have developed a sophisticated body of appraisal jurisprudence, frequently drawing on Delaware authorities while adapting those principles to local statutory language and policy considerations.

On September 30, 2025, the Judicial Committee of the Privy Council – the final court of appeal for the UK Overseas Territories and Crown dependencies, including the Cayman Islands – delivered its long-awaited decision in *Maso Capital Investments Ltd v Trina Solar Ltd*, providing authoritative guidance on the role of valuation methodologies in determining fair value.[2] In particular, the Privy Council rejected rigid or hierarchical approaches to valuation and instead emphasized a more flexible, comparative assessment of reliability.

In the months that followed, three different judges of the Grand Court issued three major appraisal judgments:

- *In the matter of Sina Corporation* on November 21, 2025;[3]
- *In the matter of 51job, Inc.* on November 24, 2025;[4] and
- *In the matter of 58.com, Inc.* on May 1, 2026.[5]

Despite a common legal framework, the outcomes diverged significantly, with the courts alternatively prioritizing intrinsic valuation, market evidence, and transaction price as the best indicators of fair value. This article examines those decisions and explores what they reveal about the continuing evolution of appraisal litigation in the Cayman Islands.

1 While there is no definition of "fair value" in the statute, the definition set out below from the *Nord Anglia* judgment has been largely adopted in subsequent cases: "… [fair value] means what has been described as the intrinsic value of shares in the Company, valued as a going concern and taking into account all value-relevant information, whether or not available to the market, whilst leaving out of account any factors peculiar to a particular buyer or seller but irrelevant to the value of the business, and any enhancement or reduction in value arising from the merger itself." *Re Nord Anglia Education* (unrep. March 17, 2020) at paragraph 5.

2 *Maso Capital Investments Ltd v Trina Solar Ltd* [2025] UKPC 48 ("Trina Privy Council Decision").

3 *In the Matter of Sina Corporation* [2025] CIGC (FSD) 110 ("Sina Judgment").

4 *In the Matter of 51job, Inc.* [2025] CIGC (FSD) 112 ("51job Judgment").

5 *In the Matter of 58.com, Inc.* [2026] CIGC (FSD) 31 ("58.com Judgment").

Trina Solar Privy Council Decision

The Privy Council clarified and revised several core principles governing the determination of fair value under Section 238.

First, there is no hierarchy among valuation methodologies. Transaction price (or the merger price), market trading price, and discounted cash flow (DCF) analysis are all legitimate tools, none of which enjoys presumptive primacy.[6]

Second, the concept of the reliability of a valuation method is not binary; instead, it exists on a sliding scale. A valuation method is not simply accepted or rejected, but treated as a "qualitative concept" in which it may be accorded more or less weight depending on its strengths and weaknesses in the particular case.[7]

Third, the court's task is inherently comparative and evaluative. It must assess the relative reliability between the valuation methodologies and may, where appropriate, adopt a blended or weighted approach.[8]

Fourth, the Privy Council rejected attempts to treat the factors set out in three leading Delaware appraisal cases – *Dell*, *DFC Global*, and *Solera* – as a rigid checklist or threshold requirement for relying on transaction price. Deficiencies in a merger process do not necessarily preclude reliance on the transaction price; they merely affect the weight to be given to it. In short, the relative reliability of the transaction price will depend on the highly case-specific and fact-dependent issues.[9]

Lastly, the Privy Council cautioned against an appellate court "substituting its own evaluation for that of the Judge" as the trial judge is "immersed in the sea of evidence," having, among other things, presided over an entire trial and heard oral evidence tested by cross-examination.[10]

As discussed below, subsequent Grand Court decisions demonstrate the centrality of case-specific analyses.

[6] Trina Privy Council Decision at paragraph 15.

[7] Trina Privy Council Decision at paragraph 15.

[8] Trina Privy Council Decision at paragraph 16.

[9] Trina Privy Council Decision at paragraph 18.

[10] Trina Privy Council Decision at paragraphs 20, 21, and 49.

Sina Corporation

Sina, a NASDAQ-listed Chinese internet media company, was taken private in March 2021 by entities affiliated with Sina's CEO and Chairman for about $2.6 billion.[11] Sina held a controlling stake in Weibo (a publicly traded microblogging platform similar to Twitter/X), had online media and microlending operations, and maintained interests in several long-term investments, including TuSimple, a start-up autonomous trucking company.[12]

Sina was taken private at $43.30 per share.[13] Sina's valuation expert opined that the fair value of the dissenters' shares as of December 23, 2020 – the date of Sina's Extraordinary General Meeting to vote on the merger and the valuation date – was $40.15 per share.[14] This was based on a blended approach: 45% weighting of Sina's adjusted market trading price (AMTP) of $37.20 per share, 10% weighting of the transaction price of $43.30 per share, and a 45% weighting of a sum-of-the-parts (SOTP) valuation analysis of $42.41 per share.[15] The company's expert applied a 42.5% holding company discount in its SOTP valuation, since Sina's market price had historically traded at a discount to the sum of the value of its assets.[16]

The dissenters' expert valued the dissenters' shares in Sina at $137.42 per share based solely on a SOTP valuation and did not apply a holding company discount.[17]

The court undertook a detailed examination of the transaction process and identified several concerns, including that "the merger transaction was effectively a forgone conclusion and was not the product of a robust arm's length process," "there was no realistic and fair opportunity for alternative bidders," "there was no market check or outreach to other buyers."[18] Against that backdrop, the court declined to place weight on the transaction price.[19]

The court also rejected reliance on the AMTP, finding that the market for Sina's shares was not semi-strong efficient, that certain material non-public information had not been fully reflected

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11 Sina Judgment at paragraphs 22 and 36.

12 Sina Judgment at paragraphs 5 to 17.

13 Sina Judgment at paragraph 29.

14 Sina Judgment at paragraph 216.

15 Sina Judgment at paragraph 216.

16 Sina Judgment at paragraphs 216 and 1034.

17 Sina Judgment at paragraph 216.

18 Sina Judgment at paragraphs 457, 521 to 527, and 532 to 534.

19 Sina Judgment at paragraph 532.

in the trading price, and that COVID-19 continued to have an impact on Sina's market price, meaning that a reliable AMTP could not be calculated.[20]

The court instead relied solely on an SOTP intrinsic valuation method, without making any adjustment for a holding company discount.[21] The result was a valuation of $105.26 per share, an uplift of $61.96 per share or 143% relative to the transaction price of $43.30 per share.[22] This represented an uplift of over $1 billion before interest to dissenting shareholders.

Sina illustrates a scenario in which both transaction price and market evidence are displaced, leaving the court to rely primarily on expert-driven valuation techniques.

51job, Inc.

By contrast, the Grand Court in *51job* adopted a markedly different approach.

51job, a NASDAQ-listed leading provider of integrated human resources services in China, was taken private on May 6, 2022, by DCP Capital Partners II, L.P., Ocean Link Partners Limited, and Rick Yan, 51job's Chief Executive Officer (together the "Buyer Consortium"), along with Recruit Holdings Co., Ltd., 51job's largest shareholder.[23]

On June 21, 2021, 51job and the Buyer Consortium entered into a merger agreement whereby the Buyer Consortium agreed to pay $79.05 per share.[24] More than eight months later, on March 1, 2022, 51job and the Buyer Consortium entered into a revised merger agreement under which the Buyer Consortium agreed to pay $61.00 per share for a total consideration of $4.6 billion.[25] The reduction in the transaction price from $79.05 per share to $61.00 per share was due to legislative and regulatory developments in the People's Republic of China (PRC) surrounding national security, cybersecurity, and data security, and in order to increase the

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[20] Sina Judgment at paragraphs 606 to 612 and 693 to 697.

[21] The judge did note that "[t]here is good evidence to conclude that the HoldCo discount is an observable phenomenon" but "[t]he Company has not shown that it is a necessary metric or input into Sina's valuation, or that there is a good reason to apply it in a fair value determination of the Dissenters' shares." Sina Judgment at paragraphs 1051 to 1052.

[22] Sina Judgment at paragraphs 1164 to 1185.

[23] 51job Judgment at paragraphs 9 to 13.

[24] 51job Judgment at paragraph 21.

[25] 51job Judgment at paragraph 21.

certainty of closing the transaction on a timely basis in compliance with all applicable PRC laws.[26]

51job's valuation expert opined that the fair value of the dissenters as of April 26, 2022 – the date of 51job's Extraordinary General Meeting to vote on the merger and the valuation date – was $31.11 per share.[27] This was based on an AMTP, which rolled forward 51job's market trading price of $45.83 per share as of January 11, 2022, the day before the news of a revised merger proposal was announced, to the valuation date of April 26, 2022, by looking at the performance of relevant stock market indices during that period.[28]

The dissenters' expert valued the dissenters' shares in 51job at $111.06 per share based solely on a DCF valuation.[29]

The court expressed strong reservations about the reliability of the DCF method under the circumstances, noting the extent to which small changes in inputs produced dramatically different outcomes.[30]

Instead, the court placed primary reliance on market-based evidence, concluding that the AMTP provided the most reliable indicator of fair value, and that the transaction price likely overstated fair value because it included a substantial acquisition premium and because fair value had declined substantially after the transaction price was agreed.[31] It ultimately determined fair value at $31.11 per share, a reduction of $29.89 per share or 49% below the transaction price.[32] This represented a refund of over $500 million, before interest, to 51job.

This outcome highlights the court's willingness, in appropriate cases, to reject DCF analysis entirely and treat the market price as the best available proxy for fair value. This is the first time the Grand Court has given exclusive weight to the AMTP, and the first time it has found fair value below the transaction price.

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[26] 51job Judgment at paragraphs 412 to 413 and January 12, 2022 Letter from Buyer Consortium to the Board of Directors and Special Committee of 51job (Exhibit A to 51job Press Release, "51job, Inc. Announces Receipt of a Proposal to Amend Merger Consideration for Going-Private Transaction," January 12, 2022).

[27] 51job Judgment at paragraph 452.

[28] 51job Judgment at paragraphs 452 and 463.

[29] 51job Judgment at paragraphs 469 to 470.

[30] 51job Judgment at paragraphs 750 to 755, 921 to 922, and 934 to 939.

[31] 51job Judgment at paragraphs 750 to 755, 832, and 934 to 939.

[32] 51job Judgment at paragraph 958.

58.com, Inc.

58.com was a publicly traded Chinese online classifieds platform operating across housing, jobs, and automotive sectors.[33] Facing disruption from COVID-19, intensified competition, and an outdated model requiring innovation, management – led by founder Michael Yao – pursued a take-private strategy to enable long-term restructuring outside public market pressures.[34]

A buyer consortium led by Mr. Yao and funds affiliated with General Atlantic, Warburg Pincus, and Ocean Link proposed a merger at $56.00 per American Depositary Share (ADS) for total consideration of about $9.0 billion, which was approved by shareholders.[35]

58.com's valuation expert opined that the fair value of the dissenters' shares as of September 7, 2020 – the date of 58.com's Extraordinary General Meeting to vote on the merger and the valuation date – was $54.18 per ADS, using a blend of the transaction price and the AMTP, with the transaction price acting as a ceiling on fair value.[36]

The dissenters' expert valued the dissenters' shares in 58.com at $105.78 per ADS, based solely on a DCF analysis.[37]

A central issue in the case was whether the transaction price could be relied upon, given allegations that the deal process was flawed. The dissenters argued that the price had been effectively pre-determined by management, that the absence of a competitive auction undermined its reliability, and that conflicts inherent in a management-led transaction distorted the outcome.[38]

The court rejected these arguments. It found that the evidence did not support any inference that the price had been fixed in advance and that the merger consideration emerged from genuine negotiations between sophisticated parties operating under identifiable economic constraints.[39] The Special Committee of 58.com, which was tasked with evaluating the proposal, had not simply accepted the initial offer but had actively negotiated price increases,

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33 58.com Judgment at paragraph 2.

34 58.com Judgment at paragraphs 4, 9, and 46 to 47.

35 58.com Judgment at paragraphs 6 and 9.

36 58.com Judgment at paragraphs 32 and 34.

37 58.com Judgment at paragraphs 35, 36, and 455.

38 58.com Judgment at paragraphs 251 to 258.

39 58.com Judgment at paragraphs 310 to 314.

and the absence of competing bids was attributed to structural factors, including the company's scale and the founder's controlling stake, rather than any deficiency in the process.[40]

The court also considered the competing valuation methodologies advanced by the parties. It declined to rely on the company's AMTP, notwithstanding evidence that the shares traded in a semi-strong efficient market.[41] The court found that the presence of material non-public information and the need for subjective adjustments undermined the reliability of the AMTP approach.[42]

Similarly, the court rejected both parties' DCF analyses as reliable indicators of fair value.[43] The dissenters' DCF was based on projections derived from General Atlantic, a member of the buyer group, that reflected a post-privatization scenario rather than the company as a standalone public entity.[44]

By contrast, the company's expert advanced his DCF only as a "cross check" to his market-based valuation, stating that a DCF based on management's projections would not provide a reliable estimate of fair value because the projections were not probability-weighted and had already become outdated by the valuation date.[45] The court emphasized that DCF outcomes were highly sensitive to input assumptions and that, in this case, those assumptions did not provide a sufficiently reliable foundation for valuation.[46]

In the absence of reliable alternative methodologies, the court concluded that the transaction price provided the most credible evidence of fair value.[47] It held that the transaction price reflected a real-world transaction between informed and economically motivated parties and was not distorted by process defects or informational asymmetries.[48] While acknowledging imperfections in the deal process, the court emphasized that such flaws only diminish the weight of transaction price where they can be shown to have affected price formation, which was not established on the facts.[49]

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[40] 58.com Judgment at paragraphs 310 to 314.

[41] 58.com Judgment at paragraphs 405 and 415.

[42] 58.com Judgment at paragraphs 413 to 415.

[43] 58.com Judgment at paragraph 493.

[44] 58.com Judgment at paragraphs 480 to 482.

[45] 58.com Judgment at paragraphs 485 to 487.

[46] 58.com Judgment at paragraph 493.

[47] 58.com Judgment at paragraph 494.

[48] 58.com Judgment at paragraph 494.

[49] 58.com Judgment at paragraphs 266 to 269, 309 to 315, and 494.

The judgment confirms that a transaction price may remain the most persuasive indicator of fair value, even in management buyouts, if process flaws do not materially distort price. At the same time, the judgment highlighted the court's skepticism toward DCF analyses that produce valuations significantly divorced from market and transaction evidence, and its careful scrutiny of market-based methodologies where informational asymmetries are present.

Conclusion

The Privy Council in *Trina Solar* sought to provide clarity by rejecting rigid hierarchies and emphasizing a flexible, comparative approach to determining fair value in appraisal matters. In doing so, it confirmed that the determination of fair value is inherently fact-specific and evaluative.

The subsequent Grand Court decisions demonstrate that this flexibility may come at a cost to some, as the three judgments have vastly different outcomes for the parties involved in the matters. *Sina* and *51job* have both been appealed to the Cayman Islands Court of Appeal, and it remains to be seen whether *58.com* will be appealed.

While the legal principles are now clearer, their application remains highly dependent on the court's determination of the quality of the deal process, the availability and reliability of market evidence, and the assessment of competing expert analyses.

Note: The author acted as a consulting expert to Sina and 51job in the proceedings discussed above.

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