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July 3, 2013

VIA EMAIL

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Superintendent of Securities, Prince Edward Island
Nova Scotia Securities Commission
New Brunswick Securities Commission
Securities Commission of Newfoundland and Labrador
Superintendent of Securities, Yukon Territory
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Nunavut

c/o The Secretary
Ontario Securities Commission
20 Queen Street West
19th Floor, Box 55
Toronto, Ontario M5H 2S8
Fax: 416-593-2318
Email: comments@osc.gov.on.ca

- and -

Anne-Marie Beaudoin
Corporate Secretary
Autorité des marchés financiers
800, square Victoria, 22e étage
C.P. 246, tour de la Bourse
Montréal, Québec H4Z 1G3
Fax: 514-864-6381
Email: consultation-en-cours@lautorite.qc.ca

RE: Proposed National Instrument 62-105 *Security Holder Rights Plans* and Proposed Companion Policy 62-105CP *Security Holder Rights Plans* (collectively, the "Defensive Tactics Proposals")

AND RE: Draft Regulation to Amend Regulation 62-104 respecting *Take-Over Bids and Issuer Bids*, Draft Regulation to Amend Regulation 62-103 respecting *Early Warning System and*

Related Take-Over Bid and Issuer Reporting Issues and Draft Amendments to Policy Statement 62-203 respecting Take-Over Bids and Issuer Bids (collectively, the "Early Warning System Proposals")

Agrium Inc. ("Agrium") is pleased to have this opportunity to respond to the Canadian Securities Administrators' ("CSA") request for comment on its Defensive Tactics Proposals and Early Warning System Proposals.

Defensive Tactics Proposals

We agree that a new regulatory approach to take-over bids and defensive tactics is warranted by changes in the Canadian public markets over the past two decades. Indeed, we are encouraged that the CSA is willing to clarify its treatment of security holder rights plans ("SRPs").

In respect of the Defensive Tactics Proposals, we are particularly supportive of the following:

- (i) a previously approved SRP does not need to be re-approved in the event that a hostile take-over bid is made; and
- (ii) the securities commissions will permit a SRP to remain in effect indefinitely, subject to compliance with the terms of the Defensive Tactics Proposals (i.e., the securities commissions will no longer routinely cease trade a SRP after a certain length of time).

Again, with reference to the specific proposals put forward by the CSA, we do not support the following:

- (i) the requirement for annual renewal which we believe to be unduly burdensome. We would suggest at least a two-year renewal period and, preferably, to continue the practice of a three-year renewal period for a SRP; and
- (ii) the ability of shareholders to terminate a SRP, particularly in the face of hostile take-over bid where the board of directors believes maintaining an SRP is in the best interests of the corporation, which would have the effect of compromising the ability of the Board to meet its fiduciary duties under Canadian corporate law.

More generally, we believe that the Defensive Tactics Proposals are inadequate for Canada's public markets. We note that the Autorité des marchés financiers ("AMF") has published its own Consultation Paper which details a more robust approach to take-over bids. We support the AMF's conclusion that "since the CSA Proposal only addresses rights plans, it does not provide a complete answer to certain fundamental issues regarding our take-over bid regime which, in our view, should all be addressed at this time." We agree with the AMF that the take-over bid regime requires a renewed emphasis on the fiduciary duties of the Board to respond appropriately to unsolicited bids. We also agree with the AMF that, in the face of a take-over bid, a board of directors should be able to consider all alternatives to decide what is in the best interests of the corporation, and not just an auction or sale of the company.

We encourage the CSA to reconsider the Defensive Tactics Proposals in favor of the principles articulated by the AMF.

Early Warning System Proposals

In light of increased shareholder activism in Canada, the emerging general recognition that activist investors have greater flexibility in pursuing activist activities in Canada relative to jurisdictions like the U.S. in particular, and the fact that Canada's early warning disclosure system is less comprehensive and

initially invoked at a much higher ownership threshold (10%) than in the U.S. and other major jurisdictions (5%), we share the CSA's concerns over reporting thresholds, hidden ownership and empty voting of securities and agree that greater transparency is required. We therefore support the Early Warning System Proposals.

If you have any questions or concerns regarding Agrium's position on the above matters, please contact Eric Miller, Senior Vice President and Chief Legal Officer, at (403) 225-7016 or by email at eric.miller@agrium.com.

Sincerely,

A handwritten signature in black ink, appearing to read "EB Miller", with a long horizontal flourish extending to the right.

Eric B. Miller
Senior Vice President, Chief Legal Officer