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Instana, Inc. Product Privacy Policy

Last modified: December 14th, 2021

1. An overview of data protection

The following information will provide you with an easy to navigate overview of what will happen with your personal data when you use any of Instana's products. The term "personal data" comprises all data that can be used to directly or indirectly personally identify you.

Controller

For the purposes of the applicable data protections Laws Instana, Inc. is the data controller for the data processed in connection with this website. For more information and how to contact Instana, please see the contact details at the end of this privacy policy.

Data collected from your use of the Instana product

We collect your data from you as a result of your sharing of your data with us. This may, for instance be information you give us when you sign up for an account with us, register for our self-service product, register your interest in our products, sign up to receive our newsletter, or if you email or phone us. We may also ask you to share your opinions on our products at certain times.

Our IT systems record other data when you use our products. This data comprises primarily technical information (e.g. IP address, web browser type and version, to, through and from our product website (including date and time), products you viewed or searched for, page response times, download errors, length of visits to certain pages, page interaction information (such as scrolling, clicks, and mouse-overs), methods used to browse away from the page, and any phone number used to call our customer service number or social media handle used to connect with our customer service team.

We also collect location data on a country-level (e.g. Germany) through our website which is not linked to you as a person unless you choose to submit a form on our website. Country-level location data allows us to gain insight about our audience and optimize website performance in each location.

Please see our product privacy policy for information about data we collect from your use of our products, which can be found https://www.ibm.com/docs/en/SSE1JP5_current/static/instana-privacy-policy-latest.pdf

If you are a California resident, you have rights under the California Consumer Privacy Act of 2018 (CCPA). Please see our California Supplemental Privacy Statement: <https://www.instana.com/california-supplemental-privacy-statement>.

What are the purposes we use your data for?

At the end of this document, you can see a full list of the types of data we process, the purpose for which we process it and the lawful basis on which it is processed.

We use information held about you in the following ways and in our legitimate interests:

- To sign you up for an account with us, or to register you for a self-service account.
- To administer your company's product licence.
- To administer our products and for internal operations, including troubleshooting, data analysis, testing, research, statistical and survey purposes.
- To guarantee the error free provision of the product site and make improvements.
- To ensure that content from the product is presented in the most effective manner for you and your device.
- To provide you with the information, products and services that you request from us.
- To analyse your user patterns.
- To ask for your opinions on our products, but we will only do this with your consent.

We may also use your personal information to provide you with information about our products or services we feel may interest you, if you have given your consent to receiving marketing material from us at the point we collected your information, where required by law or otherwise in our legitimate interests provided these interests do not override your right to object to such communications. See 'Our promotional updates and communications'.

Our promotional updates and communications

Where permitted in our legitimate interests or with your prior consent where required by law, we will use your personal information for marketing analysis and to provide you with promotional update communications, such as our newsletter, by email about our products and services.

You can object to further marketing at any time by selecting the "unsubscribe" link at the end of all our marketing and promotional update communications to you, or by contacting us at: <https://www.ibm.com/privacy/portal/contact/us-en>

Who we share your information with

We may share your information with:

- Any member of the Instana group, who support our processing of personal information under this policy.
- Selected third parties, which may include:
 - Organizations that process your personal information on our behalf and in accordance with our instructions and the Data Protection Law. This includes in supporting the services we offer through the site in particular those providing

website and data hosting services, providing fulfilment services, distributing any communications we send, supporting or updating marketing lists, facilitating feedback on our services and providing IT support services from time to time. These organizations (which may include third party suppliers, agents, sub-contractors and/or other companies in our group) will only use your information to the extent necessary to perform their support functions.

- Analytics and search engine providers that assist us in the improvement and optimization of our site and subject to the cookie section of this policy

We will disclose your personal information to third parties:

- In the event that we sell or buy any business or assets, in which case we will disclose your personal information to the prospective seller or buyer of such business or assets subject to the terms of this privacy policy.
- If Instana or substantially all of its assets are acquired by a third party, in which case personal information held by it about its customers will be one of the transferred assets.
- If we are under a duty to disclose or share your personal information in order to comply with any legal obligation or to respond to lawful requests by public authorities, including to meet national security or law enforcement requirements or in order to enforce or apply our terms of supply terms and other agreements with you; or to protect the rights, property, or safety of Instana, our customers, or others. This includes exchanging information with other companies and organizations for the purposes of fraud protection and to prevent cybercrime.

How we protect your information

We take the security of your personal information very seriously and all the information that you provide to us is stored on our secure servers. For security reasons and to protect the transmission of confidential content, such as purchase orders or inquiries you submit to us as the product website operator, this website uses either an SSL or a TLS encryption. You can recognize an encrypted connection by checking whether the address line of the browser switches from "http://" to "https://" and also by the appearance of the lock icon in the browser line. If the SSL or TLS encryption is activated, data you transmit to us cannot be read by third parties.

Unfortunately, the transmission of data via the Internet may be prone to security gaps. Although we do our best to protect your personal information, we cannot guarantee the security of your data transmitted to your site and any transmission is at your own risk. Once we have received your information, we will use strict procedures and security features to try to prevent unauthorized access.

How long we keep your information for

The length of time for which we retain your personal information depends on the type of personal information and the purposes for which we are processing it. We will only retain your personal information for as long as necessary to fulfil the purposes we collected it for or otherwise permitted by applicable laws.

To determine the appropriate retention period for personal information, we consider the amount, nature, and sensitivity of the personal information, the potential risk of harm from

unauthorized use or disclosure of your personal information, the purposes for which we process your personal information and whether we can achieve those purposes through other means, and the applicable legal requirements. If you would like more information about our retention periods, please contact us at <https://www.instana.com/docs/instana-privacy-policy-latest.pdf>.

What rights do you have as far as your information is concerned?

You have the right to receive information about the source, recipients and purposes of your archived personal information at any time, and this information is set out in this privacy policy. You also have the right, in certain circumstances, to ask that your data are rectified or erased and to request to be provided with a copy of the personal information that we hold about you. You also have the right to request that we restrict the processing of your personal information or to object to further processing of your personal information, including the right to object to marketing, or to request that your personal information be moved to a third party. To make a request please contact us at <https://www.instana.com/docs/instana-privacy-policy-latest.pdf>.

Please do not hesitate to contact us at <https://www.instana.com/docs/instana-privacy-policy-latest.pdf> at any time if you would like to make a request in relation to your rights or if you have questions about any other data protection related issues. Your message will be forwarded to the appropriate member, including the Data Protection Officer or members of their team.

You also have the right to log a complaint with the competent supervising agency (for a list of the European data protection bodies please see http://ec.europa.eu/justice/data-protection/bodies/authorities/index_en.html).

Under the Brazilian privacy law (LGPD) you also have the right to receive confirmation of the existence of processing, to access your personal data, as well as to ask for portability of your personal data to another service or product supplier, and to request anonymization.

Revocation of your consent to the processing of data

A range of data processing transactions are possible only subject to your express consent. You can also revoke at any time any consent you have already given us, without detriment (if we are relying on consent for the processing of your personal information). To do so, contact us at <https://www.instana.com/docs/instana-privacy-policy-latest.pdf>. This shall be without prejudice to the lawfulness of any data collection that occurred prior to your revocation.

Analysis tools and tools provided by third parties

There is a possibility that your browsing patterns will be statistically analyzed when you use our products. Such analyses are performed primarily with cookies and with what we refer to as analysis programs. As a rule, the analyses of your browsing patterns are conducted anonymously; i.e. the browsing patterns cannot be traced back to you.

You have the option to object to such analyses or you can prevent their performance by not using certain tools. For detailed information about the tools and about your options to object, please see below.

International Data Transfer

We primarily store your personal information in the United States and the European Economic Area (the “EEA”).

We have applied appropriate safeguards for transfers of data outside the EEA that require your personal information to remain protected among our affiliates and other third-parties described in this document. The appropriate safeguards include the implementation of the European Standard Contractual Clauses, which require all companies involved to protect the personal information they process in accordance with GDPR. For more information about these safeguards please contact us at <https://www.instana.com/docs/instana-privacy-policy-latest.pdf>.

While the EU-U.S. Framework may no longer be used or relied upon for transfer of personal information, Instana continues to comply with all EU-U.S. Privacy Shield Framework obligations as described below.

Instana complies with the EU-U.S. Privacy Shield as set forth by the U.S. Department of Commerce regarding the collection, use, and retention of personal information transferred from the European to the United States. Instana has certified to the Department of Commerce that it adheres to the Privacy Shield Principles. If there is any conflict between the terms in this privacy policy and the Privacy Shield Principles, the Privacy Shield Principles shall govern. To learn more about the Privacy Shield program, and to view our certification, please visit <https://www.privacyshield.gov/>. In order to enforce compliance with the EU-U.S. Privacy Shield Framework, Instana is subject to the investigatory and enforcement authority of the U.S. Federal Trade Commission (“FTC”). Instana adheres to the Principal of Accountability for onward transfers.

If you have an unresolved privacy or data use concern that we have not addressed satisfactorily, please contact our U.S.-based third party dispute resolution provider (free of charge) at <https://feedback-form.truste.com/watchdog/request>. Under certain conditions specified by the Principles and described at: <https://www.privacyshield.gov/article?id=How-to-Submit-a-Complaint>, you may be able to invoke binding arbitration to resolve your complaint.

2. Recording of data on this website

Cookies

In some instances, our website and its pages use so-called cookies. Cookies do not cause any damage to your computer and do not contain viruses. The purpose of cookies is to make our website more user friendly, effective and more secure. Cookies are small text files that are placed on your computer and stored by your browser. Please see our cookie policy for information:

<https://www.instana.com/cookie-policy/>.

Information about the controller

IBM Corporation
c/o Instana

71S Wacker Drive, 7th Floor
Chicago, IL 60606, USA

Contact: <https://www.instana.com/docs/instana-privacy-policy-latest.pdf>

Where Instana or an affiliate is required to appoint a legal representative, the following representatives have been appointed.

IBM International Group B.V.,
Johan Huizingalaan 765,
1066 VH Amsterdam,
The Netherlands

IBM United Kingdom Limited,
PO Box 41, North Harbour,
Portsmouth,
Hampshire, PO6 3AU,
United Kingdom

Affiliates of the controller

INSTANA GmbH	Dunkelnberger Str. 39 42697 Solingen, Germany
INSTANA UK LIMITED	5 New Street Square London, EC4A 3TW, United Kingdom
INSTANA DOO NOVI SAD	Futoška 71, 21000 Novi Sad Južno-Bački, Serbia
INSTANA B.V.	Herikerbergweg 88 1101CM Amsterdam, Netherlands
IBM Australia Ltd.	Level 17 259 George Street Sydney NSW 2000 Australia
IBM Canada Ltd. .	3600 Steeles Avenue East Markham Ontario L3R 9Z7, Canada

IBM China Company Limited	25/F Pangu Plaza No. 27, Central North Fourth Ring Road, Chaoyang District Beijing 100101 PRC
IBM India Pvt Ltd	No.12, Subramanya Arcade, Bannerghatta Main Road, Bangaluru India - 560 029
IBM Japan Ltd	19-21 Nihonbashi Hakozaki-cho Chuo-ku Tokyo 103-8510 Japan
IBM Nederland BV	Johan Huizingalaan 765 P.O. Box 9999 1066 VH Amsterdam Netherlands
IBM Österreich Internationale Büromaschinen Gesellschaft m.b.H.	Obere Donaustrasse 95 A-1020 Wien Austria
IBM Singapore Pte. Ltd.	9 Changi Business Park Central 1 Singapore 486048
IBM United Kingdom Limited	P.O. Box 41 North Harbour Portsmouth Hampshire PO6 3AU England
International Business Machines Corporation	590 Madison Avenue New York, NY 10022 United States

The controller is the natural person or legal entity that single-handedly or jointly with others makes decisions as to the purposes of and resources for the processing of personal information (e.g. names, e-mail addresses, etc.).

Purpose and lawful basis for processing of personal information

This table sets out:

- What personal information we process
- What we use that data for
- The lawful basis for the processing

#	Purpose/Activity	Type of data	Lawful basis for processing including basis of legitimate interest
1	To register you as a new customer and contact you	<ul style="list-style-type: none"> a. Identity (e.g. First name , Last name) b. Contact (e.g. Email address , Phone Number) 	Performance of a contract with you or legitimate interests
2	To manage our relationship with you which will include: (a) Notifying you about changes to our terms or privacy policy (b) Asking you to leave a review or take a survey	<ul style="list-style-type: none"> a. Identity (e.g. First name , Last name) b. Contact (e.g. Email address , Phone Number) c. Profile (e.g. Job Title, Employer) 	<ul style="list-style-type: none"> (a) Performance of a contract with you (b) Necessary to comply with a legal obligation (c) Necessary for our legitimate interests (to keep our records updated and to study how customers use our products/services)
3	To administer and protect our business and this website (including troubleshooting, data analysis, testing, system maintenance, provision of the live chat, support, reporting and hosting of data)	<ul style="list-style-type: none"> a. Identity (e.g. First Name , Last Name) b. Contact (e.g. Email address , Phone Number) c. Technical information (e.g. IP address , session identifiers) 	<ul style="list-style-type: none"> (a) Necessary for our legitimate interests (for running our business, provision of administration and IT services, network security, to prevent fraud and in the context of a business reorganisation or group restructuring exercise) (b) Necessary to comply with a legal obligation
4	To deliver relevant website content and advertisements to you and measure or understand the effectiveness of the advertising we serve to you. To carry out Twitter and LinkedIn conversion tracking	<ul style="list-style-type: none"> a. Identity (e.g. First Name , Last Name) b. Contact (e.g. Email address , Phone Number) c. Profile (e.g. Job Title, Employer) d. Website Usage (e.g. visited website content, 	Necessary for our legitimate interests (to study how customers use our products/services, to develop them, to grow our business and to inform our marketing strategy)

#	Purpose/Activity	Type of data	Lawful basis for processing including basis of legitimate interest
		website interaction) e. Technical information (e.g. IP address , session identifiers)	
5	To use data analytics to improve our website, products/services, marketing, customer relationships and experiences	a. Technical information (e.g. IP address , session identifiers) b. Website Usage (e.g. visited website content, website interaction)	Necessary for our legitimate interests (to define types of customers for our products and services, to keep our website updated and relevant, to develop our business and to inform our marketing strategy)
6	To make suggestions and recommendations to you about goods or services that may be of interest to you and send you our newsletter	f. Identity (e.g. First Name , Last Name) a. Contact (e.g. Email address , Phone Number) b. Technical information (e.g. IP address ,session identifiers) c. Website Usage (e.g. visited website content, website interaction) d. Profile (e.g. Job Title, Employer)	Necessary for our legitimate interests (to develop our products/services and grow our business) Consent where required